



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

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Lieutenant Governor

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LAURIE BURT  
Commissioner

CERTIFIED MAIL  
7009 3400 0016 6079 1925

JUNE 4, 2009

Mr. Nicholas J. Decoulos  
39 Cross Street  
Peabody, MA 01960

RE: Former Creese & Cook Tannery  
55 Clinton Avenue  
Danvers, MA 01923-3758  
RTN's 3-0303, 3-12711, & 3-26474

**NOTICE OF RESPONSIBILITY PER M.G.L. c.21E & 310 CMR 40.0000, the  
MCP**

*THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN  
RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL  
CONSEQUENCES.*

Dear Mr. Decoulos:

Please be advised that the **Massachusetts Department of Environmental Protection** (MassDEP) has reason to believe that you are a Potentially Responsible Party (PRP) for the site listed above. The purpose of this notice is to inform you of your legal responsibilities under state law for assessing and/or remediating the release of oil and/or hazardous material at the subject site. This notice is standard correspondence provided to PRPs for sites regulated under the Massachusetts Oil and Hazardous Material Release, Prevention, and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the MCP). For purposes of this notice, the terms and phrases used herein shall have the meaning ascribed to them by the MCP unless the text clearly indicates otherwise.

**STATUTORY LIABILITIES**

MassDEP has reason to believe that you (as used in this letter, "you" refers to Mr. Nicholas J. Decoulos) are a PRP with liability under M.G.L. c. 21E, § 5, for response action

costs. M.G.L. c. 21E, § 5(a) makes the following parties liable to the Commonwealth of Massachusetts for costs and or damages:

(1) the owner or operator of a vessel or a site from or at which there is or has been a release or threat of release of oil or hazardous material; (2) any person who at the time of storage or disposal of any hazardous material owned or operated any site at or upon which such hazardous material was stored or disposed of and from which there is or has been a release or threat of release of hazardous material; (3) any person who by contract, agreement, or otherwise, directly or indirectly, arranged for the transport, disposal, storage or treatment of hazardous material to or in a site or vessel from or at which there is or has been a release or threat of release of hazardous material; (4) any person who, directly or indirectly, transported any hazardous material to transport, disposal, storage or treatment vessels or sites from or at which there is or has been a release or threat of release of such material; and (5) any person who otherwise caused or is legally responsible for a release or threat of release of oil or hazardous material from a vessel or site, shall be liable, without regard to fault...

This liability is "strict", meaning it is not based on fault, but solely on your status as an owner, operator, transporter or disposer. It is also joint and several, meaning that you may be liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

The MCP requires responsible parties to take necessary response actions at properties where there is or has been a release or threat of release of oil and/or hazardous material. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, MassDEP is authorized by M.G.L. c. 21E to have the work performed by its contractors. By taking such actions, you can avoid liability for response action costs incurred by MassDEP and its contractors in performing these actions, and sanctions, which may be imposed for failure to perform response actions under the MCP.

You may be liable for up to three (3) times all response action costs incurred by MassDEP. Response action costs include, without limitation, the cost of direct hours spent by MassDEP employees arranging for response actions or overseeing work performed by persons other than MassDEP or its contractors, expenses incurred by MassDEP in support of those direct hours, and payments to MassDEP's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on all of your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.



In addition to your liability for up to three (3) times all response action costs incurred by MassDEP, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.

### **NECESSARY RESPONSE ACTIONS**

The subject site shall not be deemed to have all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP. In addition, the MCP requires persons undertaking response actions at disposal sites to perform Immediate Response Actions (IRAs) in response to "sudden releases", Imminent Hazards and Substantial Release Migration. An Imminent Hazard condition has been identified at the site due to arsenic and dioxins present in surface soils and sediments. In addition, asbestos containing building debris at the site must be characterized and properly disposed of.

You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or actually perform the necessary response actions at the subject site. Comprehensive Response Actions, pursuant to 310 CMR 40.0800, are necessary at the subject site. In order for you to initiate or continue to perform Comprehensive Response Actions at the Site, you must obtain a valid Tier I Permit Extension in accordance with 310 CMR 40.0700. In addition, the MCP requires persons undertaking response actions at a disposal site to submit to MassDEP a Response Action Outcome Statement (RAO) prepared by an LSP in accordance with 310 CMR 40.1000 upon determining that a level of No Significant Risk already exists or has been achieved at a disposal site or portion thereof. [You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals at (617) 556-1091.]

It is important to note that you must dispose of any Remediation Waste generated at the subject location in accordance with 310 CMR 40.0030 including, without limitation, contaminated soil and/or debris. Any Bill of Lading accompanying such waste must bear the seal and signature of an LSP or, if the response action is performed under the direct supervision of MassDEP, the signature of an authorized representative of MassDEP.

MassDEP encourages parties with liabilities under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and/or hazardous material. By taking prompt action, you may significantly lower your assessment and cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and annual compliance fees for response actions payable under 310 CMR 4.00.

If you have any questions relative to this notice, you should contact Maureen Vallatini at the letterhead address or (978) 694-3334. All future communications regarding this release must reference the Release Tracking Numbers (RTNs) 3-0303, 3-12711, and 3-26474, which are contained in the subject block of this letter.

Very truly yours,



Joanne Fagan  
Section Chief, Brownfields/Permits  
Bureau of Waste Site Cleanup

cc: Danvers Board of Health, Mr. Peter Mirandi (Director),  
[pmirandi@mail.danvers-ma.org](mailto:pmirandi@mail.danvers-ma.org)  
MassDEP NERO/OGC/Maureen Vallatini  
Office of Attorney General/Tracy Triplett ✓  
MassDEP NERO/Data Management/NOR/Issued





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LAURIE BURT  
Commissioner

March 27, 2009

The Orchard Farm Trust,  
c/o Nicholas Decoulos, Trustee  
39 Cross Street  
Peabody, MA 01960

ATTN: Nicholas Decoulos, as Trustee of the Orchard Farm Trust

RE: DANVERS  
55 Clinton Avenue  
RTN 3-0303, 3-12711, & 3-26474

**Request For Information (RFI);  
Establishment of Interim Deadlines;  
310 CMR 40.0000 & MGL c. 21E**

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (the "Department" and/or "MassDEP") is investigating a release of hazardous materials at 55 Clinton Avenue, Danvers, Massachusetts, 01923-3758 (the "property"). The release was reported to MassDEP in 1987 and the property was listed as "Location to be Investigated". Environmental investigations have confirmed the presence of oil and hazardous materials, including but not limited to arsenic, chromium, and dioxin at the subject property. MassDEP is issuing this letter to request the submittal of all documents maintained, owned, or otherwise in the possession of the Orchard Farm Trust ("Orchard Farm") as specified in Section II below. The Orchard Farm Trust was created by Declaration of Trust on November 8, 2002 and recorded in the Southern Essex District Registry of Deeds in Book 20447, Page 304.

Pursuant to MassDEP's authority to gather information, and to investigate, sample, and inspect documents, conditions, equipment, practices, and property under M.G.L. c. 21E, §§ 2, 4, and 8, and 310 CMR 40.0165, you (as used in this Request for Information, the term "you" refers to the Trustee of the Orchard Farm Trust and any of its employees, attorneys, agents, representatives, and/or anyone acting on behalf of it, and/or any of its successors and assigns) are directed to provide MassDEP with the information requested below before the close of business on April 10, 2009. This deadline constitutes an Interim Deadline pursuant to the Massachusetts Contingency Plan ("MCP"), 310 CMR 40.0167. If you fail to comply with this Request for Information, including but not limited to the deadline established above, you could be subject to legal action. Such action could include criminal prosecution, court-imposed civil penalties, and/or civil administrative penalties assessed by MassDEP.

## **I. Instructions**

Sources of information used to respond to this Request for Information, should include, but should not be limited to, business records; environmental assessment reports prepared by you or your subsidiaries; permits, contracts, documents, employee field notes and any other possible sources of information. Interviews with present and former employees should be conducted, if necessary, to obtain the information requested. Please refer to the attached "Definitions and General Instructions" in order to assist you further in responding to the RFI.

Where specific information has not been memorialized in any document but is nonetheless responsive to a request, you must respond to the request with a written response setting forth such information.

For each and every request contained herein, if information responsive to the request is not in your possession, custody or control, you must state that you do not have the information requested and, if you know, identify the persons from whom such information may be obtained.

Unless otherwise specified, you must provide a photocopy of each and every document identified in your responses to the request set forth below, unless you claim any such document is protected from disclosure.

For each and every such document which you claim is protected from disclosure, you must separate the parts of those documents which you do not claim are protected from the parts which you claim are protected, and state the nature of the protected information and the basis for your claim the document is protected from disclosure.

The fact that investigation is continuing shall not excuse failure to answer each request as fully as possible. You must promptly amend or supplement any response hereto upon obtaining new information which is material to any such request or to correct any errors or omissions in any response hereto.



## II. Information and/or Documents Requested

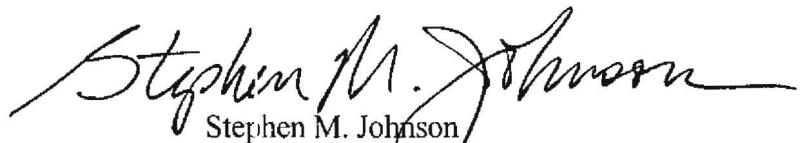
Please provide MassDEP with the information requested below:

1. Provide a current schedule of the beneficial interests for the Orchard Farm Trust. The document should:
  - a. list the names of the beneficiaries; and
  - b. identify the percentage of ownership of each named beneficiary in the trust property.
2. Identify and provide the mailing address(es) of the beneficiaries identified above in no.1.

Please be aware that 310 CMR 40.0009(6) requires any person responding to an RFI issued by the Department to execute a written Declaration as set forth in 310 CMR 40.0009(1). For your convenience, a copy of this requisite Declaration is attached to this RFI as a separate page. This Declaration should be executed by the party to whom this RFI is directed and, therefore, should be signed by you, and/or someone authorized to act on your behalf.

DEP encourages you to give this matter your immediate attention and to respond within the time specified above. If you have any questions regarding this Request for Information, please contact Maureen A. Vallatini at the address stated on the letterhead above, or by telephone at (978) 694-3334.

Sincerely,



Stephen M. Johnson  
Deputy Regional Director  
Bureau of Waste Site Cleanup

cc: Data Entry/file (C&E/RFI)  
Maureen Vallatini, DEP/OGC/NERO, [maureen.vallatini@state.ma.us](mailto:maureen.vallatini@state.ma.us)  
Christopher Pyott, DEP/BWS/NERO, [christopher.pyott@state.ma.us](mailto:christopher.pyott@state.ma.us)

**GENERAL INSTRUCTIONS FOR RESPONDING  
TO THE ATTACHED REQUEST FOR INFORMATION**

**I. Separate Numbered Responses; Document Production**

A separate response must be made to each request set forth in the attached Request for Information. You are instructed to precede each response with the number of the request to which it corresponds. Where specific information has not been memorialized in any document but is nonetheless responsive to a request, you must respond to the request with a written response setting forth such information. You are further instructed to provide the Department with a photocopy of or access to each and every document that is responsive to a request. If any document or information responsive to a request is not in your possession, custody or control, you must identify the document or information, state that you do not have the document or information requested and, if you know, identity of the person(s) from whom such document or information may be obtained.

**II. Continuing Request**

The attached Request for Information is continuing, and to the extent that the responses may be enlarged or modified by documents or information subsequently acquired by you, you are instructed to supplement your responses immediately upon acquisition of such documents or information.

**III. Documents Claimed To Be Protected From Disclosure**

You must provide the Department with access to or a photocopy of each and every document responsive to a request, unless you claim any such document is protected from disclosure.

For each and every document which you claim is protected from disclosure, you must separate the parts of the document which you claim are protected from the parts which you do not claim are protected. You must submit to the Department the parts of the document that you do not claim are protected from disclosure. You must also provide the Department with a statement as to the nature of the protected information and the basis of your claim that the information is protected from disclosure.

**DEFINITIONS**

Unless otherwise specified below, words and phrases used in the attached Request for Information shall have the meaning ascribed to such words and phrases by M.G.L. c. 21E, and/or 310 CMR 40.0000 et seq. ("Massachusetts Contingency Plan"), unless the context clearly indicates otherwise.

The following definitions shall apply to the following words and phrases as they appear in the attached Request for Information, unless the context clearly indicates otherwise:



Communication means any manner or form of information or message transmission, however produced or reproduced, whether by document, orally, electronically, or otherwise, that is made, distributed and/or circulated between or among persons or data storage or processing units.

Department or MassDEP means the Massachusetts Department of Environmental Protection.

Document means and includes, in the plural as well as the singular, writings or recordings of any nature whatsoever, including, but not limited to, contracts, agreements, communications, correspondence, telegrams, memoranda, records, reports, waste site cleanup activity reports and opinions, logs, statistical statements, accounts, analytical records, minutes, summaries or records of meetings, conversations or conferences, consultant's reports, notes, bills, invoices, checks, and all other written, printed, recorded, electronic, magnetic or photographic matter, however produced or reproduced.

Fill means any soil, construction spoils or any other material used to raise the elevation of topographical contours.

Identify means (a) **with respect to a natural person**, to state the person's full name, present or last known business and home address and telephone number; and the person's present or last known job title, position or business and responsibilities in that position; (b) **with respect to persons other than natural persons**, to state its proper name or designation; the address of its principal office; legal form (i.e., corporation, partnership, etc.); and a brief description of its business; and (c) **with respect to a document**, to state whether the document currently is in existence; the date the document bears or bore or if undated, the date it was written; the name and address of each person who wrote it or participated in the writing of it; the name and address of each person who received a copy of the document; a description of the type of document; a detailed summary of the contents of the document; its present location or custodian, or if unknown, its last known location or custodian; and if the document is no longer in existence or no longer is in your possession, custody or control, the disposition made of it, the reason(s) for such disposition and the date thereof.

Person means, in the plural as well as the singular, any agency or political subdivision of the federal, state or local government; any state, public or private corporation or authority; any individual, trust, firm, joint stock company, partnership, association or other entity; any officer, employee, or agent of such person; and any group of persons.

Site or Property means the real property located at 55 Clinton Avenue, Danvers, Massachusetts.

The words "and" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

**CERTIFICATION OF SUBMITTAL REQUIRED AT 310 CMR 40.0009(1) AND (6)**

Re: **Danvers – 55 Clinton Avenue**

**REQUEST FOR INFORMATION**

I, \_\_\_\_\_, attest under the pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this submittal, (ii) that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained in this submittal is, to the best of my knowledge and belief, true, accurate and complete, and (iii) that I am fully authorized to make this attestation on behalf of the person or entity legally responsible for this submittal. I/the person or entity on whose behalf this submittal is made am/is aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for willfully submitting false, inaccurate or incomplete information.

Date: \_\_\_\_\_

By: \_\_\_\_\_





# ProScience Analytical Services, Inc

John MacAuley  
Massachusetts DEP, Wilmington  
205 B Lowell St.  
Wilmington, MA 01887

October 10, 2008

Dear John MacAuley,

The enclosed analytical results have been obtained by using the EPA/600/R-93/116 method. The "Visual Estimate" quantitative method is generally used for determining the percentage of asbestos and other components of the sample. "The Point Counting" method may also be used upon client request or at the analyst discretion. The Point Count method is usually recommended when the sample contains less than 10% asbestos by Visual estimate. Asbestos content less than 1% is recorded on the report as TR (trace).

The Quality Control data related to the samples analyzed is available upon client's written request. ProScience Analytical Services Inc., assumes no responsibility for potential sample contamination that may have occurred during the sample collection process or erroneous data provided by the client.

The enclosed results may not be used under any circumstances as product endorsement by any US government agency including NIST/NVLAP.

All Laboratory records are retained for at least three years unless otherwise directed in writing by the client. The actual samples are retained for a period of two months and written request is necessary in order to be retained for a longer period of time. All analytical results and records are considered strictly confidential and will not be released under any circumstances to anyone except the actual client. The analytical results included in this report apply only to the items tested.

If you have any questions please contact the Laboratory Manager or the Laboratory Director.

Sincerely,

Valerica Stanca, Optical Asbestos Manager

Adrian Stanca, Laboratory Director

Enclosure: Version 2  
LAB BATCH ID: B 60133 CLIENT PROJECT ID: N/A  
Client Ref: Crook & Creese, Bldg. Demo, Danvers  
NVLAP Lab Code # 200090-0; CT ID# PH-0209; MA ID# AA000156; ME ID# LB-055; ME ID#  
LA-056; AIHA ID# 102754; VT ID# AL016876; PH ID# 218(TEM,PLM); ELAP ID# 11632; RI ID# 186.

# ProScience Analytical Services, Inc

Client #: 1229  
 Client Project: N/A  
 Client Reference: Crook & Creese, Bldg. Demo, Danvers  
 Client Name: Massachusetts DEP, Wilmington  
 Method: EPA/600/R-93/116

Batch: B 60133  
 Date Sampled: 9/18/2008  
 Date Received: 10/8/2008  
 Date Analyzed: 10/8/2008  
 Date of Report: 10/10/2008

LAB ID	Field ID	Color	ASBESTOS						NON-ASBESTOS						
			CHR	AMO	CRO	ACT	TRE	ANT	FBG	MNW	CEL	HAR	SYN	OTH	NON
B651688	091808AJ	Black	10	0	0	0	0	0	0	0	0	0	0	0	90

Description: Mastie

Location: Demo Debris

Comments:

Is asbestos present? Yes. Analyzed: Yes

LAB ID	Field ID	Color	ASBESTOS						NON-ASBESTOS						
			CHR	AMO	CRO	ACT	TRE	ANT	FBG	MNW	CEL	HAR	SYN	OTH	NON
B651689	091808BJ	Black	0	0	0	0	0	0	0	0	10	0	0	0	90

Description: Mastie

Location: Demo Debris

Comments:

Is asbestos present? No. Analyzed: Yes

LAB ID	Field ID	Color	ASBESTOS						NON-ASBESTOS						
			CHR	AMO	CRO	ACT	TRE	ANT	FBG	MNW	CEL	HAR	SYN	OTH	NON
B651690	091808CJ	Black	0	0	0	0	0	0	0	0	20	0	0	0	80

Description: Mastie

Location: Demo Debris

Comments:

Is asbestos present? No. Analyzed: Yes

LAB ID	Field ID	Color	ASBESTOS						NON-ASBESTOS						
			CHR	AMO	CRO	ACT	TRE	ANT	FBG	MNW	CEL	HAR	SYN	OTH	NON
B651691	091808DJ	Black	0	0	0	0	0	0	0	0	20	0	0	0	80

Description: Mastie

Location: Demo Debris

Comments:

Is asbestos present? No. Analyzed: Yes

Asbestos Codes: CHR = Chrysotile AMO = Amosite CRO = Crocidolite ACT = Actinolite TRE = Tremolite ANT = Anthophyllite

Non-Asbestos Codes: FBG = Fiberglass MNW = Mineral Wool CEL = Cellulose HAR = Hair SYN = Synthetic OTH = Other NON = Non-Fibrous Minerals

\* All results are in percentage.

*Valerie Hauke*  
 Stefanie Bishop, Analyst

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING

CHAIN OF CUSTODY RECORD

B60133

1. Sample Collection

I James Jordan collected 4 samples  
Name No.  
marked 091808(A)J - 091808(D)J from Danvers  
Sample identification letter and/or No. City or Town  
Crook + Creese Body dam  
Source Station or Location  
on 9/18/08 at 2:30 PM  
Date Time  
Signature of Person Taking Sample(s) [Signature]  
Agency DEP  
Signature of Witness to Taking Sample(s) \_\_\_\_\_  
Agency \_\_\_\_\_

2. Sample Transportation and Delivery

I James Jordan transported and delivered 4 samples  
Name No.  
marked 091808(A)J - 091808(D)J and collected from Danvers  
Sample identification letter and/or No. City or Town  
to Pro Science on 10-8-08 at 9:30 AM  
Place of Delivery Date Time  
Signature of Person Transporting and Delivering Sample(s) \_\_\_\_\_  
Agency \_\_\_\_\_

3. Sample Recipient

I \_\_\_\_\_ received 4 samples  
Name No.  
marked 091808(A)J - 091808(D)J and subsequently numbered \_\_\_\_\_  
Sample identification letter and/or No.  
Laboratory Number(s) from Danvers  
City or Town  
Crook + Creese Body dam  
Source Station or Location  
from James Jordan on 10-8-08 at \_\_\_\_\_  
Name of Person Delivering Sample(s) Date Time  
Signature of Person Receiving Sample(s) \_\_\_\_\_  
Agency \_\_\_\_\_



# ProScience Analytical Services, Inc.

## PEM Asbestos Chain of Custody Record

### LABORATORY/HEADQUARTERS

### CONSULTING SERVICES

22 Cummings Park, Woburn, MA 01801

683 North Mountain Rd., Newington, CT 06111

T:781-935-3212 F:781-932-4857

T:860-953-1022 F:860-953-1030



☒ RUSH

Page | Of |

Turn Around Time Requested

☒ Same day ☐ 24 Hour ☐ 48 Hour ☐ 72 Hour ☐ 5 Days

DO NOT DISCARD SAMPLES - STORE UNTIL OTHERWISE NOTIFIED BY DEP

Account: ~~ATC ASSOCIATES INC~~ MA Dep

Relinquished By: James Jordan MA - DEP

Address: 600 West Cummings Park, Suite 5500, Woburn, MA 01801

Received By and Date: ATC Associates

Client: MA DEP - West Regional Office Wilmington

Received By and Date: Sharon Hallissy 10/8/08 9:45am ProScience

Project Number & Site: 60.20291.0003 --

Quantity Received: 4 Analyzed: 4

Phone (FAX) Number: 617-654-6564 / 617-654-6510 (also see Comment below)

Faxed By and Date: 10/8/08 10:10

Contact: John MacAuley - MA DEP 978-694-3491

Stop on First Positive: Yes No

Lab Use: Batch Number: B60133

Analyzed By / Date: Sharon Hallissy 10/8/08 By / Date:

Lab ID			Field ID Sampled date			Description / Location			Visual			Optical Properties			Refractive Indices			Asbestos Percentage (%)			Non Asbestos Percentage (%)											
									Color	Homogeneity	Texture	Fracture	Morphology	Extinction	Sign of Elongation	Birefringence	Pleochroism	Oil	Chrysotile	Amosite	Crocidolite	Tremolite	Anthophyllite	Actinolite	Fiberglass	Mineral Wool	Cellulose	Hair	Synthetic	Other	Non Fibrous	
61688			091808(A) 9-18-08			mastic / dense debris													11													
689			091808(B) 9-18-08			mastic / dense debris																										
690			091808(C) 9-18-08			mastic / dense debris																										
691			091808(D) 9-18-08			mastic / dense debris																										

Comments: FAX REPORT TO CLIENT CONTACT INDICATED ABOVE. FAX COPY (781-932-6211) AND SEND ORIGINAL & INVOICE TO ATC, attn KEVIN DRINAN

# ProScience Analytical Services, Inc.

## PLM Asbestos Chain of Custody Record

### LABORATORY/HEADQUARTERS

22 Cummings Park, Woburn, MA 01801

T:781-935-3212 F:781-932-4857

### CONSULTING SERVICES

683 North Mountain Rd., Newington, CT 06111

T:860-953-1022 F:860-953-1030



☒ RUSH

Page 01

Turn Around Time Requested

☒ Same day ☐ 24 Hour ☐ 48 Hour ☐ 72 Hour ☐ 5 Days

DO NOT DISCARD SAMPLES - STORE UNTIL OTHERWISE NOTIFIED BY DEP

Account: ~~ATC ASSOCIATES INC~~ MA DEP

Address: 600 West Cummings Park, Suite 5500, Woburn, MA 01801

Client: MA DEP - West Regional Office Wilmington

Project Number & Site: 60.20291.0003 --

Phone (FAX) Number: 617-654-6564 / 617-654-6510 (also see Comment below)

Contact: John MacAuley - MA DEP 978-694-3491

Relinquished By: James Jordan MA - DEP

Received By and Date: ATC Associates

Received By and Date: Sharon Hallissy 10/8/08 9:45am ProScience

Sign & Print Name

Quantity Received: 4 Analyzed:

Faxed By and Date: 10/3/08

Sign on First Fasting: Yes No

Lab Use> Batch Number:

Analyzed By / Date:

By / Date:

Lab ID	Field ID Sampled date	Description / Location	Visual		Optical Properties						Refractive Indices		Asbestos Percentage (%)					Non Asbestos Percentage (%)								
			Color	Homogeneity	Texture	Fracture	Morphology	Extinction	Sign of Elongation	Birefringence	Pleochroism	Oil		Chrysotile	Amosite	Crocidolite	Tremolite	Anthophyllite	Actinolite	Fiberglass	Mineral Wool	Cellulose	Hair	Synthetic	Other	Non Fibrous
	091808(A)J 9-18-08	mastic / demo debris																								
	091808(B)J 9-18-08	mastic / demo debris																								
	091808(C)J 9-18-08	mastic / demo debris																								
	091808(D)J 9-18-08	mastic / demo debris																								

Comments: FAX REPORT TO CLIENT CONTACT INDICATED ABOVE. FAX COPY (781-932-5211) AND SEND ORIGINAL & INVOICE TO ATC, attn KEVIN DRINAN



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
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IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

September 22, 2008

Mr. Nicholas J. Decoulos  
Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

**Re: Danvers – Former Creese & Cook Tannery**  
**55 Clinton Avenue**  
**REQUEST FOR PROPERTY ACCESS**  
**PURSUANT TO M.G.L. c. 21E §8**

Dear Mr. Decoulos:

This letter is a request by the Massachusetts Department of Environmental Protection (MassDEP) to sample potential asbestos containing building debris within your property at 55 Clinton Avenue in Danvers. The purpose of the sampling is to obtain up-to-date information on the nature and extent of asbestos that may exist in the building debris that exists as a result of the demolition of the former Beamhouse building.

During late September/early October 2008, MassDEP intends to collect samples of various materials from the building debris pile in order to determine whether or not they contain asbestos. The samples will be sent to Pro Science Laboratory in Woburn, MA, for asbestos analysis. The proposed work should take no longer than one day to complete and you will be notified of the exact date once the work is scheduled.

Please contact Mr. Christopher Pyott, Environmental Analyst, Bureau of Waste Site Cleanup at (978) 694-3353, by **September 26, 2008**, to grant access to the MassDEP for the sampling work described above.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Fagan".  
Joanne Fagan  
Section Chief  
Brownfields/Permits

**Pyott, Christopher (DEP)**

---

**From:** Pyott, Christopher (DEP)  
**Sent:** Monday, September 22, 2008 2:36 PM  
**To:** 'decouloslaw@verizon.net'  
**Cc:** Fagan, Joanne (DEP)  
**Attachments:** Asbestos Sampling Access Letter.SEP08.doc

Hey Nick – Thank you for the verbal approval to complete the asbestos sampling on the 55 Clinton Avenue property. Here is a copy of MassDEP's "Request for Property Access Letter" for your records. MassDEP will arrange and complete the sampling work specified in the letter as soon as possible.

9/22/2008



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

SCANNED

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Commissioner

SEPTEMBER 10, 2008

**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**  
**Email & Certified Mail**

**CERTIFIED MAIL: 7007 1490 0000 0101 6107**

Mr. Nicholas J. Decoulos, as Trustee of  
Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

RE: **Danvers - Former Creese & Cook Tannery**  
55 Clinton Avenue  
RTNs: 3-0303, 3-12711 & 3- 26474

Dear Mr. Decoulos:

On September 5, 2008, Massachusetts Department of Environmental Protection (MassDEP) personnel held an enforcement conference with Mr. Nicholas J. Decoulos, as Trustee of Orchard Farm Trust (hereinafter referred to as "you") and Mr. James D. Decoulos at MassDEP's Northeast Regional Office located in Wilmington, MA. You are in receipt of a draft Administrative Consent Order with Penalty (ACOP) for noncompliance with M.G.L. c. 21E, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, and the regulations adopted thereunder, the Massachusetts Contingency Plan 310 CMR 40.0000, for the site located at 55 Clinton Avenue in Danvers, MA. The goal of the enforcement conference was to discuss the contents of the ACOP and reach a negotiated settlement.

During the enforcement conference, you indicated that you do not have the financial ability to conduct all of the response actions required by the draft ACOP and would like to file a Financial Inability Application with MassDEP. You further indicated the following information:

- The signs required to be installed along the shoreline of the Crane River are ready to be posted;
- You are actively working with an asbestos contractor to obtain a cost estimate to address the debris pile;



- You will seek a cost estimate from a fencing company to complete the fence installation and repairs around areas that pose an Imminent Hazard.

At the conclusion of the enforcement conference, it was evident that reaching a negotiated settlement for the ACOP would not be achieved. MassDEP proceeded to outline its expectations and timelines for the required Immediate Response Actions that need to take place at the site. This letter documents MassDEP's expectations, as discussed at the enforcement conference, as well as future actions that may be implemented by MassDEP.

Mr. Nicholas J. Decoulos, as Trustee of the Orchard Farm Trust, must complete the following actions by the deadlines listed below:

- **By September 12, 2008, signs must be installed along the shoreline to notify the public of potential hazards associated with contacting the contaminated sediment in the Crane River.**
- **By September 12, 2008, a signed contract with a fencing company to complete the fence installation and repairs around areas that pose an Imminent Hazard must be submitted to MassDEP.**
- **By September 19, 2008, the fencing that is down shall be repaired, the area behind the former Beamhouse shall be secured with fencing, and the hole that exists beneath the fencing allowing access along the southern edge of the former lagoon area shall be secured. In addition, you must guarantee that arrangements have been made to have the site inspected on a monthly basis to ensure the fencing and signage remain intact, and if problems are identified they will be fixed within 7 days of the date of the identification of the problem.**
- **By September 19, 2008, a Scope of Work must be submitted to MassDEP that includes testing for asbestos in all suspect material within the entire construction debris pile that was generated by demolishing the former Beamhouse in place. The Scope of Work must include a cost estimate and commitment to identify, remove, and appropriately dispose of all asbestos-containing construction debris from the property within a timeline subject to approval by MassDEP.**
- **By September 19, 2008, the attached property access agreement must be signed and submitted to MassDEP, so MassDEP has the ability to access the property and complete the Immediate Response Actions necessary to address remaining Imminent Hazard conditions in the event you fail to complete these actions.**

Should you fail to undertake the required response actions by the deadlines established above, or should you complete the work in a manner that MassDEP determines to be unacceptable, MassDEP will initiate these response actions and may initiate appropriate cost recovery and/or enforcement actions.

It should be noted that the above actions and deadlines solely address the Imminent Hazard Condition present at the site. As indicated in the draft ACOP, you are also in noncompliance for failing to submit Phase Reports (Phase II, III, & IV) and a Response Action Outcome Statement to MassDEP. MassDEP is therefore pursuing legal actions under M.G.L. c.21E and M.G.L. c.21A Section 16 for violations of Chapter 21E and other laws, regulations, orders or approvals, including, but not limited to, issuance of a unilateral administrative order, issuance of a notice of administrative penalty, and/or referral to the Attorney General's Office.

Details regarding Financial Inability Status, if you elect to apply, may be found at <http://www.mass.gov/dep/cleanup/approvals/fininabl.htm>. If you have any questions relative to this notice, please contact Christopher Pyott at the letterhead address or (978) 694-3353.

Sincerely,



Christopher Pyott  
Environmental Analyst  
Brownfields/Permits



Joanne Fagan  
Section Chief  
Brownfields/Permits

**Attachment: Standard Consent to Enter Property Agreement**

**cc via mail:**

Data Management (C&E/Intlet)

**cc via e-mail**

Maureen Vallatini, Senior General Counsel, MassDEP  
Woodard & Curran, 35 New England Business Center, Andover, MA 01810  
Attn: Mr. David MacDonald  
Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923  
Attn: Mr. Peter Mirandi  
Decoulos & Company, 185 Alewife Brook Parkway, Cambridge, MA 02138  
Ann: Mr. James J. Decoulos



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## STANDARD CONSENT TO ENTER PROPERTY AGREEMENT

### COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### WHAT IS THIS FORM FOR?

The Massachusetts Department of Environmental Protection (MassDEP) requests that Nicholas J. Decoulos, as Trustee of the Orchard Farm Trust grant access to the former Creese & Cook Tannery Property (DEP Release Tracking Number's 3-0303, 3-12711, & 3-26474) which is located at 55 Clinton Avenue, in Danvers, MA. The purpose of requesting site access is to conduct remedial response actions to abate an Imminent Hazard (IH) Condition, including, but not limited to, fencing, posting signage, and removing or containing asbestos materials. The IH is present due to contaminated surface soils and sediments, and the presence of asbestos-containing construction debris. The purpose of this form is to provide details on the response actions that will be conducted at the 55 Clinton Avenue Property, explain the impacts of MassDEP's access, and define responsibilities you will have in this matter. Please be aware that, by signing this form, you (as used in this letter, "you" refers to Mr. Nicholas J. Decoulos, as Trustee of the Orchard Farm Trust) are acknowledging that you agree to allow MassDEP personnel and/or its contractors entry to the aforementioned property to perform this work. If you have any questions or concerns, you should contact Christopher Pyott at (978) 694-3353.

#### WHO WILL PERFORM THIS WORK?

The work will be performed by one or more contractors selected by MassDEP in accordance with state contracting/bidding procedures. The selected contractor(s) will be fully insured and/or licensed in accordance with state contracting requirements. MassDEP personnel will oversee and approve all work.

#### WHAT IS THE PURPOSE/OBJECTIVE OF THIS WORK?

The subject Property has a long history of use as a tannery. Prior environmental investigations have identified an IH due to surface soil contamination in certain upland areas of the Property, and the potential for an IH due to contamination of the sediments in the adjacent

may also pursue other legal action under M.G.L. c.21E and M.G.L. c.21A Section 16 for violations of Chapter 21E and other laws, regulations, orders or approvals.

If you cannot perform these remedial response actions, you must submit a notice of financial, technical or legal inability as described in 310 CMR 40.0172 to secure yourself with a defense to treble damages. Even if you have a defense to treble damages, you will still be obligated to complete response actions that you are able to perform and continue to be liable for costs and damages.

#### **PROPERTY OWNER CERTIFICATION TO ALLOW ACCESS**

I, the undersigned, agree to allow MassDEP personnel and/or its contractors to enter property located at 55 Clinton Avenue, Danvers, in order to perform the work described above. I understand that MassDEP will make reasonable efforts to minimize adverse impacts to my property and I understand that I will be responsible for the activities and expenses as described above.

#### **Consented To:**

By: \_\_\_\_\_  
Nicholas J. Decoulos, Trustee of  
Orchard Farm Trust  
39 Cross Street, Peabody, MA 01960  
Federal Employee Identification No:  
Date:



## Conference Meeting Attendance Sheet

Meeting Purpose: Former Creese + Cook Tannery - ENFORCEMENT CONF.  
Date: 9/5/2008 Conference Room: Hearing Room 2 Point of Contact: Chris Pyott

Name	Organization	Address	Email	Telephone No.
1. Chris Pyott	Mass DEP	205 B Lowell St, Wilmington	Christopher.Pyott@state.ma.us	978-694-3355
2. Maureen Vallatini	Mass DEP - OGC	"	" maureen.vallatini@state.ma.us	978-694-3334
3. Joanne Fagan	Mass DEP	"	joanne.fagan@state.ma.us	978-694-3390
4. Nicholas J. Decoulos	Orchard Farm	39 Cross St	decoulslaw@verizon.net	975-8532-1020
5. JAMES J. DECOULOS	DECOULOS + CO	185 ALWING BLVD CAMBRIDGE	JAMESJ@DECOULOS.COM	617-489-7795
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				





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Mr. Nicholas Decoulos  
Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

July 2, 2007

RE: ACKNOWLEDGEMENT OF RECEIPT OF TIER I PERMIT EXTENSION  
Application for: BWSCBWS20 TIER I PERMIT EXTENSION  
Transmittal Number: WI22625 Permit Number: 104028

AT: Former Creese & Cook Tannery  
25 Clinton Avenue  
Danvers, MA  
RTN: 3-00303

Dear Permit Applicant:

This letter serves to acknowledge receipt of your application and the correct payment for the Tier I Permit Application, Major Modification, Transfer and/or Extension referenced above. An official start date of June 19, 2007 has been established for this application. In accordance with 310 CMR 4.04(2)(a), 310 CMR 4.10(10) and 310 CMR 40.0720(4), the Massachusetts Department of Environmental Protection (MassDEP) has 45 days from this date to perform its review and provide (1) a decision to deny the permit, major modification, transfer and/or extension, (2) a decision to grant the permit, major modification, transfer and/or extension with conditions or (3) a Notice of Extended Review to extend the review period for an additional 45 days.

If MassDEP does not provide you with a decision or notice as described in (1) through (3) above within 45 days from the official start date, your application request shall be considered presumptively approved by MassDEP in accordance with 310 CMR 40.0720(6). Any such approval does not alter your obligation to comply with other applicable federal, state, and local statutes, ordinances, bylaws and regulations before any work may commence. In accordance with 310 CMR 40.0751, (1) a Tier I Permit shall be effective for five years from the effective date of the initial permit, (2) any modification or transfer of a permit shall be effective for the remaining duration of the permit being modified or transferred and (3) an extension shall be effective for a period of two years beyond the expiration date of the initial permit or most recent extension, unless otherwise specified by MassDEP.

Should you have any questions regarding your application, please contact Chris Pyott or the regional BWSC Permit Section Chief, at the telephone number listed in the letterhead.

Sincerely,

Joanne Fagan, Section Chief  
Brownfields/Permits  
Bureau of Waste Site Cleanup

Law Office of  
**NICHOLAS J. DECOULOS**  
39 Cross Street (Suite 204)  
Peabody, Massachusetts 01960-1666  
Telephone (978) 532-1020

Nicholas J. Decoulos (Ext. 12)  
File No. 5485

E-Mail: decouloslaw@verizon.net

November 19, 2007

Commonwealth of Massachusetts  
Department of Environmental Protection  
Attention: Christopher Pyott  
205B Lowell Street  
Wilmington, MA 01887

**Re: Former Creese & Cook Tannery Site  
Clinton Avenue, Danvers**

Dear Chris:

3-12711

Pursuant to our telephone conversation, I enclose a copy of the application submitted by the Town of Danvers for a cleanup assessment grant.

Very truly yours,



Nicholas J. Decoulos

NJD:aw  
Enclosure

**RECEIVED**

NOV 23 2007

DEP  
NORTHEAST REGIONAL OFFICE

TOWN OF DANVERS

Wayne P. Marquis, Town Manager



Town Hall, Sylvan Street  
Danvers, MA 01923  
Telephone (978) 777-0001  
Fax (978) 777-1025  
wmarquis@mail.danvers-ma.org

October 11, 2007

Environmental Management Support, Inc.  
Attn: Mr. Don West  
8601 Georgia Avenue, Suite 500  
Silver Spring, MD 20910

RE: EPA Brownfields Assessment Grant, FY 2008

Dear Mr. West:

The Town of Danvers, Massachusetts respectfully requests \$350,000 in EPA assessment funds to address a brownfields site and encloses its application herewith. The Town intends to use the funds to assess a 13.5 acre property located at 25 Clinton Avenue, along the banks of the tidally influenced Crane River.

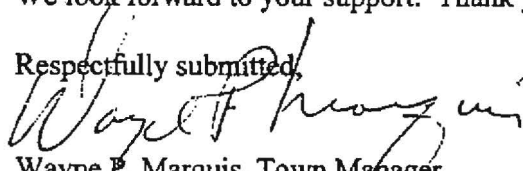
The property was formerly used by the Creese & Cook leather tannery from 1914 to the late 1970's. Beamhouse operations, where rawhides were initially treated, dehaired and bated, occurred at the property. The chroming and finishing of hides occurred across the River, on which there is presently located a multi-family complex. EPA was initially involved in addressing contamination at the property in December of 1979, after complaints of odors were received from residents in the area (CERCLIS Number: MAD 001031574).

The Town of Danvers was incorporated in 1757. It is located in northeastern Massachusetts and was one of the earliest settlements in Essex County.

The contact for this project will be Susan R. Fletcher, Assistant Director, Department of Planning and Human Services, 1 Sylvan Street, Danvers, MA 01923; tel: 978-777-0001 x3095; email: [sfletcher@mail.danvers-ma.org](mailto:sfletcher@mail.danvers-ma.org).

We look forward to your support. Thank you.

Respectfully submitted,

  
Wayne P. Marquis, Town Manager  
[wmarquis@mail.danvers-ma.org](mailto:wmarquis@mail.danvers-ma.org)  
Town of Danvers

## **DEMONSTRATION OF THRESHOLD CRITERIA FOR ASSESSMENT GRANT**

### **A. APPLICANT ELIGIBILITY**

The Town of Danvers (the "Town") is an eligible entity for the EPA Brownfields Grant program. The Town is a "General Purpose Unit of Local Government" as presented in Section III of the Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund and Cleanup Grants.

### **B. LETTER FROM STATE ENVIRONMENTAL AUTHORITY**

As an applicant other than a State or tribal environmental authority, the Danvers Department of Planning and Human Services must provide a letter from the Massachusetts Department of Environmental Protection (MassDEP) acknowledging its plan to conduct assessment activities. We have provided such a letter prepared by the MassDEP's Bureau of Waste Site Cleanup. (Appendix 1.)

### **C. SITE ELIGIBILITY AND PROPERTY OWNERSHIP ELIGIBILITY**

#### **1. Basic Site Information:**

- a) *Name of Site:* Former Creese & Cook Tannery Beamhouse Site
- b) *Address:* 25 Clinton Avenue
- c) *Current Owner:* Orchard Farm Trust, 39 Cross Street, Suite #204, Peabody, MA 01960 (the "Trust")
- d) *Zoning:* The property is currently zoned for multi-family use.
- e) *Description:* The property is located along the banks of the Crane River, as shown on a locus map (Appendix 2.) The property is further shown as Parcel B on a plan (Appendix 3.) The parcel has frontage on the Yankee Division Highway (Route 128) measuring 283.72 feet but has no access thereon. Access to the site will be through Clinton Avenue. The following principal highways run through the Town: Interstate Route 95, U.S. Route 1, State Routes 62, 114 and 128. The former beamhouse on the property is shown in an illustration in the Lynn Telegram dated July 14, 1914. (Appendix 4.)

#### **2. Status and History of Contamination at the Site:**

- a) *Contamination:* Arsenic, asbestos, lead, chromium and chlorinated dioxins/furans.
- b) *Operational history and current uses:* The site was formerly used by the Creese & Cook leather tannery from 1914 to the late 1970's. Beamhouse operations, where leather skins were initially treated, dehaired and bated occurred at the site. The site is currently vacant with the rubble of the razed brick building remains thereon.
- c) *Environmental Concerns:* Elevated arsenic, asbestos, lead, chromium and chlorinated dioxins/furans detected at the site are assumed to pose a potential risk to human health and ecological receptors. These constituents have been preliminarily identified in upland soils and river sediments. Ecological receptors include a wide array of birds, invertebrates and mammals who use upland areas adjacent to the saltmarsh and mudflat areas of the tidal river for significant foraging and nesting habitat.

- d) *Origination of Contamination:* The former Creese & Cook leather tannery operated on portions of both sides of the Crane River from 1914 to the late 1970's. Tanning and finishing activities were performed on the opposite side of the River in the area known as Danversport. The beamhouse operations, where skins were initially treated, dehaired, and bated prior to chroming and finishing occurred at the Clinton avenue property. Initial treating and dehairing operations for tanning typically involved soaking the skins to treat them for infestation and to prepare the skins for the mechanical removal of hair. Soaking was typically done with either organic acid solutions or arsenic solutions, adopted near the time of initial operations at Creese & Cook because of the availability and economy of lead-arsenate pesticide solutions which had entered the market by that time. These pesticide solutions frequently also contained phthalates, which were added as a penetrant. Phthalates were also used in the finishing process in lacquers to aid in penetration into the chromed skins. Final dehairing typically involves scraping of the skins in the presence of a strong basic solution or oxidant solution. Bating is primarily a pH adjusting step to neutralize and soften the skins prior to chroming, and was accomplished in an adjusting bath. All of the solution baths would have accumulated solids or lost their strength after a period of time and would have been discharged to the on-site lagoons prior to replenishing the baths.

3. Sites Ineligible for Funding

The site is not listed or proposed for listing on the National Priorities List; is not subject to unilateral administrative orders, court orders, administrative orders on consents, or judicial consent decrees issued to or entered into by parties under CERCLA; and is not subject to the jurisdiction, custody or control of the United States government.

4. Sites Requiring a Property-Specific Determination

The Site is not subject to a CERCLA planned or ongoing removal action nor does it fall under any of the categories identified under Section 3.4 in Appendix 3 "Information on Sites Eligible for Brownfields Funding Under CERCLA". No PCBs were found above regulatory criteria.

5. Enforcement Actions

MassDEP issued a Notice of Noncompliance (NON) as provided in the General Laws of Massachusetts, Chapter 21E (the state Superfund law) and the Massachusetts Contingency Plan (MCP) to Orchard Farm Trust on August 4, 2006 (NON-NE-06-3C001). The basis of the NON was that the Trust had not filed appropriate status reports under the MCP. The Trust subsequently engaged the services of the environmental consulting firm Woodard & Curran of Andover, MA and the site is now in compliance with Chapter 21E and the MCP.

6. Liability and Defenses/Protections Where Applicant Does Not Own Site

The Town has never held title to the Site and has no potential of incurring liability under either CERCLA or Chapter 21E.



7. Liability and Defenses/Protections Where Applicant Owns Site  
Not applicable.
8. Petroleum Sites  
Not applicable.

### **RANKING CRITERIA FOR ASSESSMENT GRANT**

The assessment, cleanup and redevelopment of the 25 Clinton Avenue site is part of a reinvention in order to improve livability and rid the contamination from the site. Currently proposed reuse plans for the site include open space, grant public access to the river and the construction of mid rise residential apartments. The design of the remediation plan will impact potential final solutions on the parcel and the site assessment planning must be integrated. This grant will help to address significantly contaminated areas at the site and allow the assessment process to move forward.

#### **A. ASSESSMENT GRANT BUDGET**

Budget Categories				
Programmatic Costs	Site Assessment Costs	Project Oversight/ Monitoring	Public Meetings and Community Involvement	TOTAL
Personnel				
Fringe Benefits				
Travel				
Equipment				
Supplies				
Contractual	\$305,000	\$25,000	\$20,000	\$350,000
Other (Specify)				
<b>TOTAL</b>	<b>\$305,000</b>	<b>\$25,000</b>	<b>\$20,000</b>	<b>\$350,000</b>

#### **Task 1: Assessment Costs**

Private parties who are financially responsible under the Massachusetts Superfund law for assessing and cleaning up confirmed and suspected hazardous waste sites must retain a licensed Hazardous Waste Site Cleanup Professional (commonly called a "Licensed Site Professional" or simply an "LSP") to oversee the assessment and cleanup work. The Board of Registration of Hazardous Waste Site Cleanup Professionals is an independent, 11-member board that licenses and regulates LSPs in Massachusetts. The Board works to maintain high standards of practice and to protect public health, welfare, and the environment by establishing qualifications for licensure, administering a licensing exam, requiring that LSPs obtain continuing education, and investigating complaints against LSPs to ensure compliance with state laws, regulations and the Board's own rules of professional conduct.

The Trust will be responsible for selecting a suitable LSP who will oversee the continuing assessment activities and perform the necessary project monitoring for the protection of human health, safety, welfare and the environment. Assessment costs will be directed towards detailed risk assessment procedures required under statute and regulations.

Chapter 21E and the MCP are risk based – if there is no risk to human health, safety, welfare or the environment, there is no liability. Accordingly, a site specific risk characterization approach is proposed due to the presence of site-related hazardous materials in the mudflats and sediments of the adjacent Crane River. In addition to evaluating the risks of on-site soil and groundwater contamination, the mudflat and adjacent site areas within the Crane River will be evaluated as habitat for ecological biota, as well as for recreational use by local and future site residents.

Human receptors which will likely be evaluated to address (potential) current exposures include trespassers/recreators (in the river). Future exposure scenarios may include construction/utility workers and hypothetical future residents.

An ecological risk assessment will be conducted to critically evaluate sediment data from the site against data for sediments throughout the local watershed to assess whether site chemical data are consistent with local conditions. If this critical evaluation is inconclusive, then additional risk characterization activities will be evaluated to assess the toxicity of site sediment conditions relative to those at other locations in the watershed.

Crane River sediment chemistry data from the site will be statistically compared to local conditions/reference data to determine whether site concentrations of contaminants are consistent with or exceed those representative of local conditions.

A comprehensive environmental risk characterization will be conducted, which entails a more site-specific, detailed approach to characterize ecological risks. Potential exposure pathways and receptors will be evaluated and assessment endpoints (the ecological entities to be protected) and measure of effects (data used to evaluate the assessment endpoint) will be selected.

As part of the problem formulation, a sampling and analysis plan shall be prepared that will outline the approach to collect and evaluate additional data (i.e., tissue samples and toxicity tests), and the plan will be implemented. For each assessment endpoint, data shall be provided that quantify the extent to which target populations are exposed to the chemicals of potential concern at the site. Separately, data will also be presented that will help illustrate or quantify the effects of that exposure. In some cases, effects data are obtained from the literature, and represent concentrations associated with adverse effects in similar species.

The risk characterization shall involve conducting toxicity testing, tissue analysis, exposure modeling and toxicity threshold comparisons to assess if the potential for significant ecological risk exists at the site. Results from this process will indicate whether there is the potential for significant ecological risk at the site and whether additional data collection or selective remediation is warranted.

Additionally, the risk characterization shall require collecting invertebrate tissue samples and co-located soil/sediment samples for laboratory toxicity testing and chemical analysis. Current MassDEP and EPA ecological risk assessment guidance recommends using at least three lines of evidence to support risk assessment conclusions. Use of site-specific field-collected data may reduce the uncertainties associated with estimating ecological risks and provide a sound basis for the conclusions of the risk characterization.

Finally, the LSP shall be responsible for characterizing the risk of harm to terrestrial receptors. Remaining upland areas adjacent to the saltmarsh and mudflat areas that will be used for open space likely provide significant foraging and nesting habitat for a wide array of birds and mammals. Terrestrial ecological risks will therefore be evaluated, as appropriate, using the MassDEP and EPA guidelines for ecological risk characterization.

Once the risk characterization is complete, the LSP shall prepare a remedial action plan which identifies, evaluates and selects comprehensive remedial action alternatives. The action plan shall describe and document the information, reasoning and results used to identify and evaluate remedial action alternatives in sufficient detail to support the selection of a proposed remedial action alternative.

#### Task 2: Project Oversight and Monitoring

The Town will oversee the assessment activities undertaken by the LSP and perform the necessary project monitoring during the assessment actions to ensure compliance with the MCP and MassDEP protocols. Costs under this Task 2 include the Town's time and reporting.

#### Task 3: Public Involvement and Community Meeting

Activities undertaken to foster public involvement during the assessment actions shall inform the public about the risks posed by the disposal site, the status of response actions and opportunities for public involvement. The Trust shall consider, address and incorporate these concerns in planning assessment and response actions.

A Public Involvement Plan (PIP) shall be developed to involve the public in decisions regarding appropriate future response actions. Concerns, information, and comments from the public about the disposal site shall be solicited, considered, addressed and, where relevant and material to the response action, incorporated into decisions regarding response actions at the disposal site.

A public meeting shall be held to present a draft PIP, solicit public comment and provide information about disposal site conditions. This public meeting shall be held at a time and location convenient to the affected public. Residents of the Town shall be informed of the public meeting by the posting of a legal notice and press release. The draft PIP shall be made available for public comment for a minimum of 20 days following the public meeting. A summary of comments received on the draft PIP shall be developed, noting comments that have been incorporated and providing an explanation for why others have not. The copy of the response to comments and the final PIP shall then be made available.

## **B. COMMUNITY NEED**

### **1. Targeted Community**

The Town of Danvers is located in the northeastern part of Massachusetts and the southern party of Essex County. Colonists had moved into the area as early as 1630, when Salem began allocating land grants and a village was authorized in what is now modern Danvers as early as 1636. Governor John Endicott was one of the first settlers in the town and established Orchard Farm, a very large land holding for its day. The farm was approximately 500 acres in area, of which the site is a part. The town's location, proximity to Salem and easy access to roads north and south have transformed it from a small colonial farming community to a vigorous suburban municipality which is proud of its municipal services and school system. According to the 2000 Census, it has a population of 25,212.

### **2. How will the targeted community benefit?**

The blight associated with the site has had a significant, negative effect on the neighborhood surrounding the site and the riverine ecosystem. Addressing the effects of blight at the site is a key component of the redevelopment effort the Town proposes to oversee. Specifically, the assessment and final cleanup of 25 Clinton Avenue will allow for the construction of apartments and also access to a previously inaccessible river for enjoyment of the natural environment.

There is located on the site a cemetery in which the decendents of Governor John Endicott were buried beginning in the early 1700's. The historical site will be protected and access will be provided to the public, working closely with the Massachusetts Historical Commission.

### **3. Impact of Brownfield on targeted community**

The 25 Clinton Avenue site currently attracts unwanted trespassers. Illegal dumping, is a significant public safety problem, and creates an unsafe environment for the area residents. A proposed conceptual reuse for the site includes a passive recreation area for nearby residents. The successful completion of this project will have a positive impact on the moderate income residents of the proposed residential units, eliminate potential exposures to neighbors and improve the health and safety of the neighborhood.

Danvers is a well developed community with limited remaining developable land. The limited resources constrain growth. As a result, the Town must focus on smart strategies to adapt or reuse land in its older, developed areas to accommodate future growth.

Danvers has seen a decline of manufacturing due to labor costs and other factors, resulting in Brownfield sites located in the Town, in many cases within residential neighborhoods surrounding old industrial areas. As discussed above, the blight associated with Brownfields has had a significant impact on Danvers's community life, creating a barrier to the Town's economic development effort and resulting in potential threats to human health and the environment.

Providing access to the Crane River and creating open space along the river banks will also provide important environmental and recreational benefits to the community.

### **C. SITE SELECTION PROCESS**

1. How Site was Selected. The Site was selected as a result of complaints of odors from neighbors and vandalism at the former beamhouse building, which initiated enforcement actions by EPA, MassDEP, the Town Board of Health and the Town Building Department.
2. Selection Criteria. The criteria that was used for selecting the site was risk to human health, public safety and the threats to the environment. The site has the potential to be returned to a productive use and provide important revenue to the Town.
3. Site Eligibility. The Site was originally designated by EPA for assessment under CERCLIS in 1995. After EPA's involvement, three release tracking numbers have been assigned by MassDEP under Chapter 21E to address heavy metal contamination and asbestos releases from the razed beamhouse.

### **D. SUSTAINABLE REUSE OF BROWNFIELDS**

1. How would grant prevent pollution and reduce resource consumption?

With the current EPA brownfields assessment grant, the Town's Planning Department is actively working with the Town on its Brownfields Initiative to ensure all identified sites are cleaned up and redeveloped. The Planning Department prioritized the site as the one brownfield site most in need of clean-up and having the highest redevelopment potential. The Town's zoning and building permit processes extensively review new development and new land uses in conjunction with the Town's Engineering Department. These Town codes and permits also require that new businesses and developers comply with State environmental laws and regulations. This provides for effective controls to ensure that contamination of soil and groundwater is prevented. The Town's Planning Department fields questions from businesses and developers and make referrals to MassDEP regarding pollution prevention issues. Working with the Massachusetts Office of Pollution Prevention, the Town of Danvers will refer existing companies - and companies considering moving to the Town - to this program. The program provides the resources needed for companies to practice pollution prevention, reduce toxins, improve operating practices and reduce or eliminate waste. The Planning Department Director has direct contact with MassDEP's pollution prevention management staff.

Efforts will be made to use the latest LEED standards in measuring the proposed development of the site. The Town may invite national experts to brownfields meetings and integrate LEED standards in any reuse planning associated with the project funded under this grant.

## 2. How would the grant promote economic benefits?

As noted above, Danvers has seen a decline of manufacturing due to labor costs and other factors, resulting in abandoned and underutilized sites located in the Town, in many cases within residential neighborhoods surrounding old industrial areas. The blight associated with Brownfields has had a significant impact on Danvers's community life, creating a barrier to the Town's economic development effort and resulting in potential threats to human health and the environment.

The assessment and remediation of the 25 Clinton Avenue site will help recapture the economic value of this and other properties. In addition, the proposed development will serve as an amenity to support redevelopment efforts at adjacent underutilized properties and improve property values.

## 3. How would the grant promote a vibrant community with mixed uses?

The area in the vicinity of the site is comprised of single family homes, and over 2 million square feet of retail and office space. Massachusetts General Hospital is currently constructing a 100 million dollar medical complex on a previously used manufacturing site located 2,000 feet south of the site. The new medical complex is immediately across the street from the access road leading to Clinton Avenue. The development of the site will provide housing for these nearby commercial uses and encourage smartgrowth. All of the varied uses are within walking distance to each other.

### **E. CREATION AND/OR PRESERVATION OF GREENSPACE/OPEN SPACE OR NONPROFIT PURPOSE**

The proposed reuse for the 25 Clinton Avenue property includes the creation of a linear trail, multi-use park and conservation space. This new public green space will allow for the opportunity for recreation and enjoyment of the natural environment and also access to a previously inaccessible river. Greenspace expansion has been a priority for the Town of Danvers as outlined in several of the Town's redevelopment initiatives. The impediment to the creation of open space and greenways has been brownfields. Assessment and remediation of the site will facilitate the creation of new open and accessible space.

### **F. PRE-AWARD COMMUNITY NOTIFICATION**

#### 1. Describe how the targeted community will be notified

The Town has on an ongoing community involvement program through its Planning Department. If EPA awards the Town the assessment grant, community involvement activities will be expanded to include a comprehensive stakeholder involvement program. The grant summary and draft application would be made available for public review at Town Hall.



2. Explain why the method proposed is appropriate

The Town has used a similar process in successfully engaging the public in previous planning activities. Public meeting announcements, including date, time, place and purpose of the public meetings will be submitted by press release to appropriate media outlets.

3. Comment period

The Danvers Planning Department discussed the grant applications at a meeting and the consensus agreed to go forward with the grants. If the grant is awarded, the formal opportunity for community members to review and contribute comments to the grant application will take place prior to finalizing the scope of work. A 30 day comment period will allow for written and oral comments on the scope of work. This will provide the Town feedback with regard to and the planned assessment activities and allow the public an opportunity to communicate their concerns.

4. Plans for addressing comments received

The Danvers Planning Department will accept comments on the Scope of Work and decide on the validity of those comments. Productive comments will be incorporated into a revised Scope of Work.

## **G. ONGOING COMMUNITY INVOLVEMENT**

1. Discuss plan for involving the affected community

The Town of Danvers is committed to the involvement of the public throughout the assessment and planning process. As noted in Task 3 of Section A, a Public Involvement Plan (PIP) shall be developed to involve the public in decisions regarding appropriate future response actions.

2. Describe efforts and/or plans to develop partnerships

Although there is no business relationship between the Town of Danvers and Orchard Farm Trust, they enjoy a close working relationship. The Trust is committed to a sustained redevelopment of the property adopting smartgrowth principles which will allow the residents at the site to work and enjoy the nearby mixed uses.

3. Describe specific plans for communicating progress to citizens.

The Planning Department meets regularly. With appropriate topics, a community-wide meeting can be held. At these meetings, all brownfield issues and progress will be discussed. Community-wide meetings are planned at key milestones of the assessment process.

4. Provide a list of community-based organizations involved in this project.		
Representative	Title	Phone
Susan Fletcher	Assistant Director of Planning	978-777-0001 X 3027
Kristen Tarricone	Staff Planner	978-777-0001 X 3099
Peter Mirandi	Director of Public Health	978-777-0001 X 3025

## H. REDUCTION OF THREATS TO HUMAN HEALTH AND THE ENVIRONMENT

1. Describe how this will address/facilitate the identification and/or reduction of threats to human health and the environment.

The site property has been vacant for a number of years. Soil contamination, consisting primarily of hazardous substances (arsenic, asbestos, lead, chromium and chlorinated dioxins/furans) is known to exist on the property. Groundwater contamination has been identified at the site which leaches out of the banks of the Crane River on the northeastern property boundary. The discharged contaminated ground water negatively affects the surface waters of the Crane River and its ecosystem.

The assessment will address potential direct contact exposure from contaminated surface soils and eliminate concerns regarding groundwater migration off-site. Additionally, the assessment will address ecological risks pertaining to the site and the relationships to the River ecosystem. The redevelopment plan for the site calls for the creation of open space and access to the River. Once assessment of the property is completed, the Town will review the assessment plan which is expected to protect the community from potential health risks and other contaminant hazards associated with soil and groundwater contamination. Specific details of the environmental risk characterization were noted earlier in Task 1 of Section A.

2. Describe how you are working with your state or local public health department.

MassDEP has worked closely with all the communities in Massachusetts, including the Danvers Health Department, in placing brownfield sites back to productive use. The Trust shall consult and work with these departments in developing its redevelopment program for the site. A thorough review of threats to human health and the environment will be conducted in conjunction with this program. The Danvers Health Department is involved with the Planning Department and continues to be a key stakeholder in the process. The assessment and redevelopment of the site is intended to mitigate environmental and safety threats. In addition, these redevelopment efforts will likely be a catalyst for overall neighborhood redevelopment efforts that will result in safer housing and reduced exposures to lead, asbestos and other threats to children and adults. Both the Directors of Health and the Planning Department will be involved in these redevelopment plans that will provide data and assistance with regard to potential public health issues in this process.

## **I. LEVERAGING OF ADDITIONAL RESOURCES**

The remediation, demolition, and redevelopment of the site is a multi-phase multimillion dollar investment. With the help of federal and state agencies, the Town of Danvers has committed to the completion of this long term improvement project by the property owner.

### **1. Identification of Funds**

To date, the Town has invested the substantial time and efforts of its staff and resources bringing this project to fruition.

### **2. Demonstrate ability to leverage funds**

The Town of Danvers has successfully attracted federal and state funding from a variety of sources in support of the following projects.

- (1) Crane and Porter Rivers Dredging Project - The Town received approximately \$1,300,000.00 from the Seaport Advisory Council.
- (2) John George Park - The Town received approximately \$900,000.00 from the Massachusetts Division of Conservation Services.
- (3) Improvements and Rehabilitation of Endicott Park - The Town received approximately \$500,000.00 from the Massachusetts Division of Conservation Services.
- (4) Creation of Pope's Landing and Harbormaster's Office - The Town received approximately \$400,000 from the Massachusetts Division of Conservation Services.

## **J. PROGRAMMATIC CAPABILITY**

### **1. Demonstrate your ability to manage this grant**

The Town of Danvers has been a recipient of grants of federal and state funds, samples of which are described above.

The Applicant is not aware of any adverse audit findings from any governmental agency.

### **3. Plans for tracking and measuring progress**

Outcomes, jobs created, funding leveraged, areas preserved, residential units made available, an increase in the tax basis, and any other relevant information will be tracked throughout the life of the project through completion of the remediation and reuse. This information will be reported to EPA beyond the performance period of the grant to the final redevelopment.

# APPENDIX 1



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK  
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Lieutenant Governor

IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

October 9, 2007

Ms. Carol Tucker  
Brownfields Coordinator (HBT)  
US EPA Region One  
One Congress Street  
Boston MA 02114-2023

RE: STATE LETTER OF ACKNOWLEDGEMENT  
*Town of Danvers: Cleanup Grant Application*

Dear Ms. Tucker:

I am writing to support the proposal submitted by the Town of Danvers for funding under the EPA Cleanup Grant Program. Massachusetts is well positioned to support the efforts of the Town to facilitate the cleanup and redevelopment of the Creese and Cook Tannery.

As you know, the Commonwealth of Massachusetts has taken a number of steps over the last decade to encourage the redevelopment of contaminated properties. In 1993, we privatized our waste site cleanup program, greatly accelerating the rate of cleanups across the state. We continue to work with the regulated community to look for ways to provide flexibility in our regulations for brownfields and other contaminated sites.

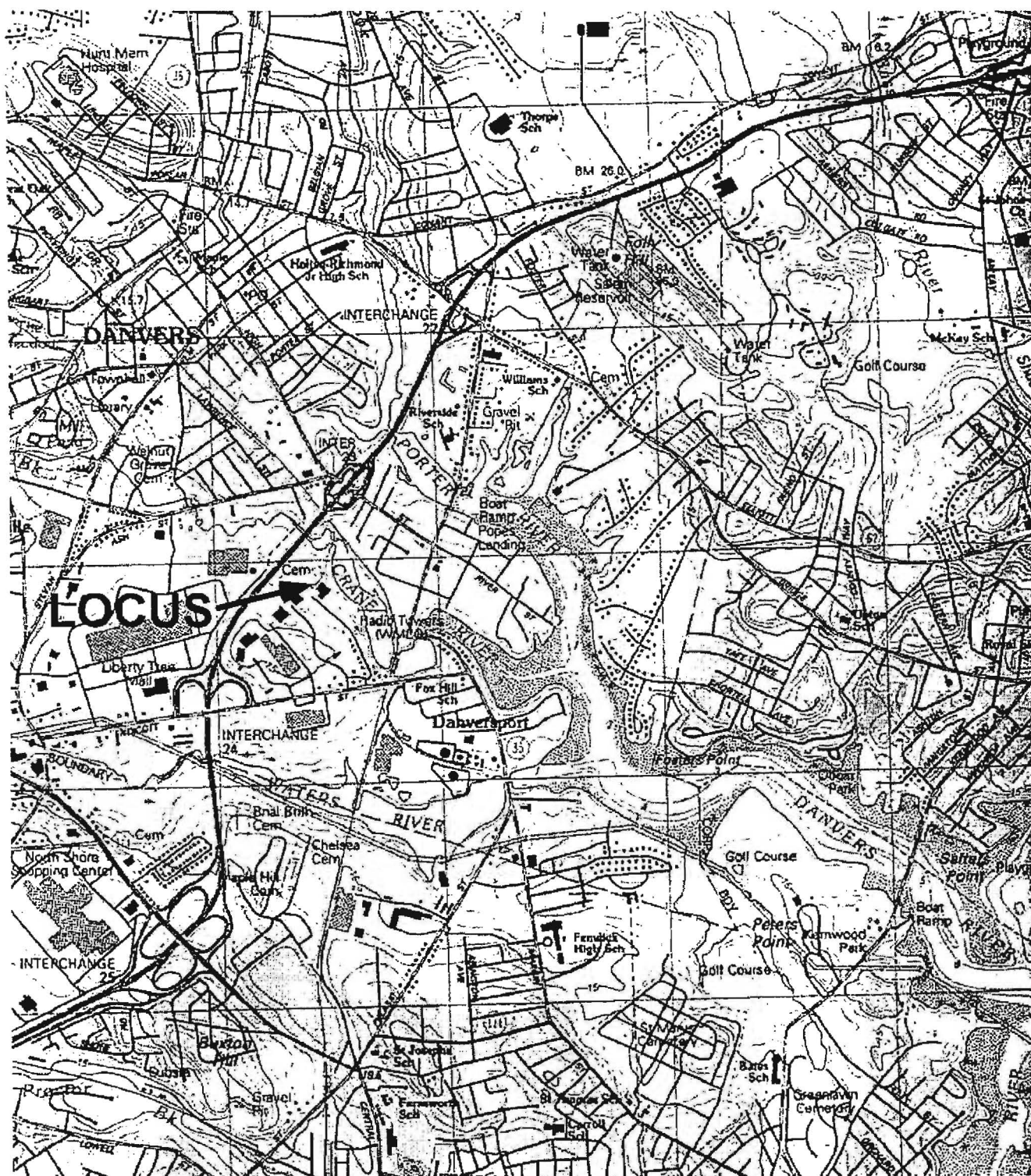
MassDEP has partnered with state and federal agencies, providing technical support for brownfields projects and maximizing use of available incentives. If this proposal is selected, we will help make it successful by working with our brownfields partners to assist the Town in taking full advantage of these tools to ensure our shared goals are met. We applaud your continued funding of brownfields projects in the Commonwealth, and look forward to our continued partnership on this important issue.

Sincerely,

Catherine Finneran  
MassDEP Brownfields Coordinator

Cc: James Decoulous, Decoulous and Company fax 617-842-9629  
Joanne Fagan, MassDEP Northeast Regional Office

## APPENDIX 2



**REFERENCE:**

USGS QUADRANGLE  
SALEM, MA  
DATE: 1985  
SCALE: 1:25 000

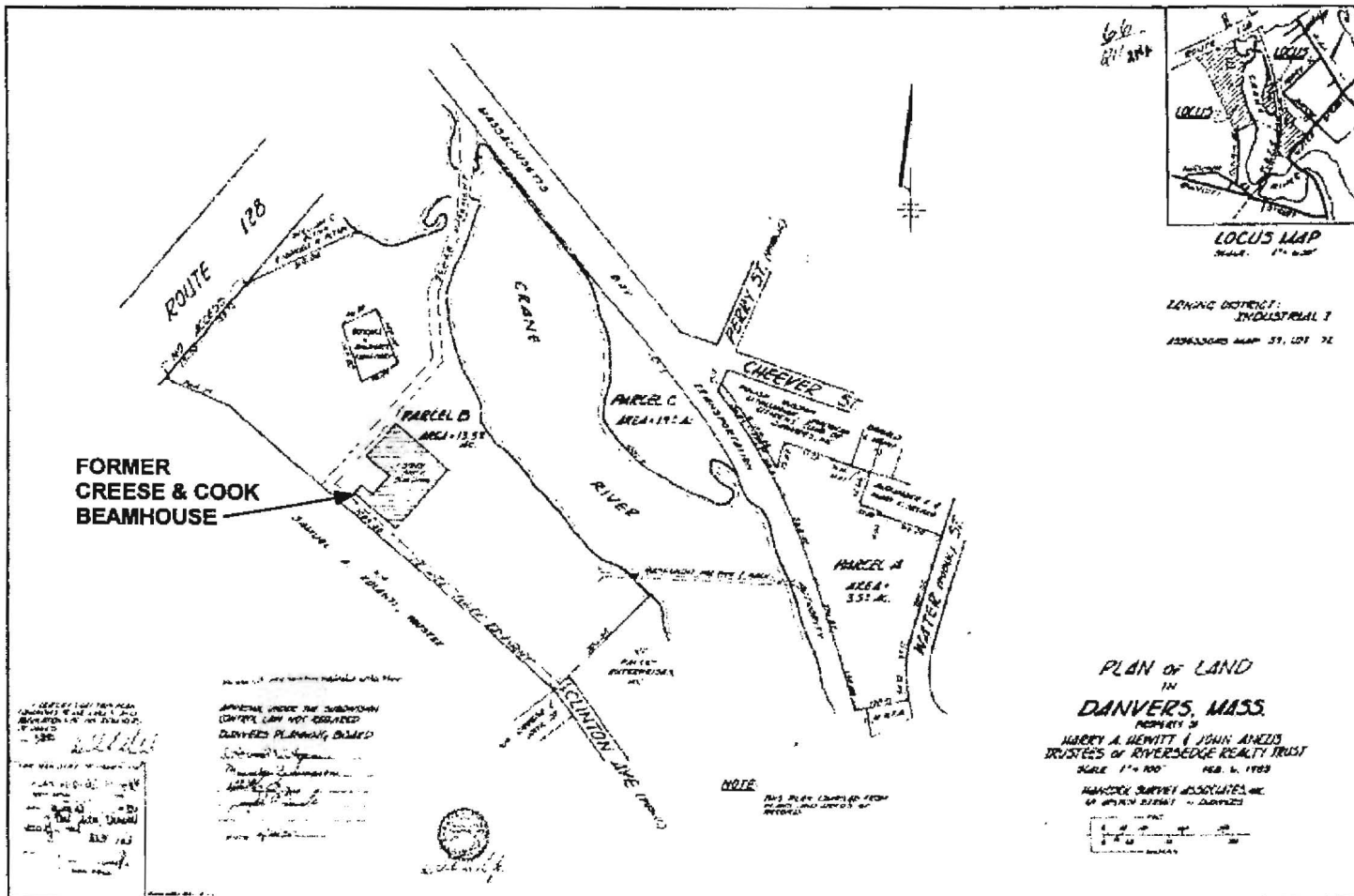


**LOCUS MAP**

**FIGURE 1**



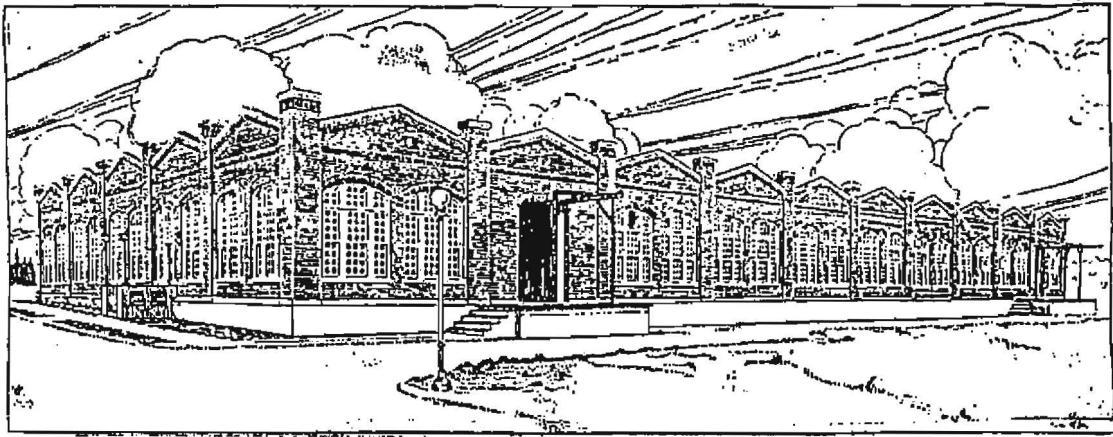
## APPENDIX 3



## APPENDIX 4

THE LYNN TELEGRAM, TUESDAY, JULY 14, 1914

## *A Shoe Firm's Modern Beam House*





COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

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ARLEEN O'DONNELL  
Commissioner

AUG 01 2007

**CERTIFIED MAIL**

**7007 0220 0002 1450 9423**

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

Attn: Mr. Nicholas Decoulos

Dear Mr. Decoulos:

RE: **DANVERS**  
Former Creese & Cook Tannery  
25 Clinton Avenue  
**RTN 3-12711 & 3-0303**  
Permit # 104028  
**DECISION TO MODIFY PERMIT  
FROM TIER 1C TO TIER 1B  
DECISION TO GRANT PERMIT  
EXTENSION WITH CONDITIONS**

The Massachusetts Department of Environmental Protection (MassDEP) has concluded its review of the Tier I Major Permit Modification and Extension Application for the above-referenced site, which was submitted by Woodard & Curran (W&C), on behalf of the Orchard Farm Trust (OFT). The Tier I Permit Modification is sought, because during Immediate Response Action (IRA) activities at the Site, previously undocumented concentrations of arsenic, chromium, lead, and dioxin were detected in surface soils and sediment, that warranted the reclassification of the Site from Tier 1C to Tier 1B. The Permit Extension is sought in order to complete IRA activities that will abate an Imminent Hazard (IH), and complete Comprehensive Response Actions in order to achieve a Response Action Outcome.

In the Permit Application, W&C provided a schedule for completion of response actions at the Former Creese and Cook Tannery. W&C anticipates that the IH will be eliminated and an IRA Completion Report will be submitted by the end of July 2007, the Phase II through IV Comprehensive Response Actions will be updated during the summer of 2007, a Release Abatement Measure or Phase V activities will be completed in 2008, and a Class A Response Action Outcome will be achieved as feasible after 2009.

Pursuant to 310 CMR 40.0720 (4)(b) of the Massachusetts Contingency Plan (MCP), MassDEP is modifying your permit from Tier 1C to Tier 1B and granting a Tier 1B Permit Extension with the following Conditions:

- By **December 31, 2007**, OFT must provide MassDEP with a revised Phase II Report that meets the requirements of 310 CMR 40.0830, and a revised Phase III Remedial Action Plan which meets the requirements of 310 CMR 40.0850.
- By **June 1, 2008**, OFT must provide MassDEP with a revised Phase IV Remedy Implementation Plan, which meets the requirements of 310 CMR 40.0870.



COMMITMENT & INTEGRITY  
DRIVE RESULTS

35 New England Business Center  
Suite 180  
Andover, Massachusetts 01810  
www.woodardcurran.com

T 866.702.6371

T 978.557.8150

F 978.557.7948

June 13, 2007



Kristan Tarricone, Planner  
Department of Planning and Human Services  
Conservation Commission  
1 Sylvan Street  
Danvers, MA 01923

Re: Former Creese & Cook Tannery  
25 Clinton Avenue  
Danvers, MA  
MassDEP RTNs: 3-0303 & 3-12711

Dear Ms. Tarricone:

In accordance with 310 CMR 10.06(3), Woodard & Curran, on behalf of the Orchard Farm Trust (property owner), is requesting an emergency exemption from an Order of Conditions to install fencing at the site referenced above. The fence installation is being required as part of a Massachusetts Department of Environmental Protection (MassDEP) Bureau of Waste Site Cleanup (BWSC) approved Immediate Response Action (IRA) Plan being conducted under the Massachusetts Contingency Plan (MCP; 310 CMR 40.0000).

The purpose of the fence installation is to eliminate an Imminent Hazard to human health posed by concentrations of arsenic in surface soils at three separate areas within wetland resource areas regulated under the Town of Danvers Conservation Bylaw and Wetlands Protection Act. These areas are shown on Figure 1 of the enclosed Modified IRA Plan dated May 4, 2007. The Modified IRA Plan was Conditionally Approved by Joanne Fagan of BWSC on May 24, 2007 (copy enclosed). The Conditional Approval requires installation of the fence around these areas on or before June 24, 2007.

Please contact me as soon as possible to discuss any questions you may have regarding this request and to schedule a site walk.

Sincerely,

WOODARD & CURRAN INC.

David R. MacDonald, PG, LSP  
Senior Project Manager

DRW/drw  
210667

RECEIVED

JUN 15 2007

DEP  
NORTHEAST REGIONAL OFFICE

Enclosures: May 4, 2007 Immediate Response Action Plan Modification  
May 24, 2007 IRA Conditional Approval Letter / Designation of Interim Deadlines letter

cc: Nick Decoulos, Orchard Farm Trust  
✓ Chris Pyott, MassDEP BWSC NERO  
Andover Project File



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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**CERTIFIED MAIL**  
**7066 2760 0000 4035 2451**

**June 8, 2007**

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

**RE: Danvers**  
**Former Creese & Cook Tannery**  
**25 Clinton Avenue**  
**RTN's 3-12711 & 3-26474**  
**Extension of Interim Deadline**

Attention: Mr. Nicholas Decoulos

**Extension of Interim Deadline;**  
**M.G.L. c.21E & 310 CMR 40.0000**

Dear Mr. Decoulos:

On May 24, 2007, the Massachusetts Department of Environmental Protection (MassDEP) issued an Immediate Response Action Conditional Approval/Designation of Interim Deadline Letter (May 24, 2007 IRA Letter) to Orchard Farm Trust (hereinafter referred to as "you" or "your") and established a 30-day deadline to install fencing surrounding areas that pose an Imminent Hazard to human health at the subject site. On May 24, 2007, MassDEP received a verbal request from you to extend this deadline an additional 15 days.

On May 24, 2007, you submitted a signed contract with Reliable Fence Company to MassDEP to complete the required fencing work. The contract states that the fencing project will take 4-6 weeks to complete. Therefore, you are requesting a 15-day extension to the deadline established in MassDEP's May 24, 2007 IRA Letter, in order to allow the additional time necessary to complete the fencing project.

The purpose of this correspondence is to inform you that MassDEP is hereby approving your request, and extending the Interim Deadline to complete the fencing installation to July 8, 2007. All other Interim Deadlines established in the May 24, 2007 IRA Letter will remain as



**ORCHARD FARM TRUST**  
**Nicholas J. Decoulos, Trustee**  
39 Cross Street (Suite 204)  
Peabody, Massachusetts 01960-1666  
Telephone (978) 532-1020

SCANNED

June 5, 2007

(via certified mail)  
Commonwealth of Massachusetts  
Department of Environmental Protection  
ATTENTION: Joanne Fagan, Section Chief  
205B Lowell Street  
Wilmington, MA 01887

Town of Danvers  
Water and Sewer Department  
Town Hall  
Danvers, MA 01923

Reliable Fence Co.  
ATTENTION: Mark Theriault  
283 Salem Street  
Woburn, MA 01801

RECEIVED

JUN - 7 2007

DEP  
NORTHEAST REGIONAL OFFICE

Re: Danvers-Former Creese & Cook Tannery  
25 23 Clinton Avenue  
RTN's 3-12711 & 3-26474

SL-PYOTT

Dear Addressees:

I enclose a copy of the contract from Reliable Fence which states that the installation of the fence will begin the week of June 25, 2007. I have been advised by Reliable that I will be contacted several days prior to the commencement of the work.

Dig Safe has issued identification number: 2007-230-1128, which is valid for 30 days from June 4, 2007, and is continuous if the work has begun within the thirty day period.

Law Office of  
**NICHOLAS J. DECOULOS**  
39 Cross Street, Suite 204  
Peabody, Massachusetts 01960-1666  
Telephone (978) 532-1020

Nicholas J. Decoulos

E-Mail: decouloslaw@verizon.net

**FACSIMILE TRANSMITTAL**  
**Fax (978) 531-0936**

Date: May 24, 2007To: Chris PyottReceiver's FAX Number: 978-694-3496From: Nicholas J. Decoulos Our File # RE: Creese & Cook TanneryNumber of Pages to Follow: 1Message: Transmitted herewith is the executed copy of the contractwith Reliable Fence. Please call me so that we can discussthe installation requirement in your letter of May 24, 2007.It appears that they will be able to install the fencewithin 4 to 6 weeks from the date of the contract.

If the transmission quality is poor or if it was  
incomplete, please call immediately.



of the NORTH SHORE, INC.  
263 Salem St., Woburn, MA 01801  
WWW.RELIABLEFENCEBOSTON.COM

Woburn: (781) 933-9363  
Peabody: (978) 535-3535  
Waltham: (781) 890-6105  
Braintree: (781) 356-8800  
Merrimack: (978) 346-8007  
Plaistow: (603) 382-4004  
Toll Free: (800) 321-9363  
Fax: (781) 933-9304

PRE-SALE INFORMATION	
Salesman	Type of Fence
Appl. Date	Footage / Gates
Appl. Time	Budget Quote
Source of Lead	

Proposal Submitted to: **ORCHARD FARM TRUST** Job Location: **Behind Staples/BT's.**

Street: **39 Cross St Suite 204** Directions: **Danvers MA**

City, State, Zip: **Peabody MA** Comments:

Phone: **978-531-0936** Cell: **978-531-0936** E-mail: **DecoulosLaw@Verizon.net** Work:

### TERMS & CONDITIONS PLEASE READ CAREFULLY

1. ALL ORDERS ARE CUSTOM MADE and are limited to the scope of work as outlined. Any additional work will be billed at \$95.00 per hour including travel time plus necessary materials. Quote is based on conditions at date of proposal. Customer is responsible to notify RFC of any changes.
2. Customer is to clear proposed fence lines prior to installation of all obstructions. A clear area 18" from the center line of fence on each side is required for proper installation.  
NOTE: Reliable Fence cannot be responsible for shrubs or flowers within 36" of proposed fence lines. Customer should be back or remove all planting they wish to protect.
3. Customer is responsible to contact Dig-Safe at 800-344-7111. (RFC ID # 16556).
4. Customer to clearly mark all underground utilities. Reliable is not responsible for any damage to any underground utilities (waterlines, gas lines, electric, etc.) that are not clearly marked.
5. Every city and town has differing regulations and restrictions regarding fencing. The customer is responsible for conforming to local ordinances & OBTAINING PERMITS IF REQUIRED.
6. The customer is responsible for establishing and marking all property lines and providing survey, if required, if necessary.
7. Customer to provide to RFC water/electric and live electrical power outlet.
8. RFC cannot remove excess soil and rocks from property. Excavation equipment responsibility of owner.

### INSTALLATION CHECK LIST:

Clearing **By owner**

Tree/Shrubs **X Def X**

Obstructions

Pins

Access **four**

Ledge/Blasted Rock

Misc. Equipment

☐ Fence to Follow Grade ☐ Fence to Step on Grade

The slope of your property will determine how much space will be under fence.

### SPECIAL OPTIONS:

**X Job to be started out**  
**known by owner X**

☐ Additional Site Check Required

☐ This project is priced on a "fill in" basis and profitably will be done without notice. If you require a scheduled date add \$190 to quote.

### PAYMENT OPTIONS:

- ☐ Cash/Check - 50% Deposit with Balance COD
- ☒ Mastercard/Visa - 100% Advance Payment

☒ Special Terms

**X RFC is Running**  
**4-6 weeks on install X**

A service charge of 1.5% per month (18% annual) will be charged on all Past Due Balances.

### SCOPE OF WORK

Footage A	Height	Style	Footage B	Height	Style
2100'±	6'	galvanized chain Link			
Posts	2" Line Post		Posts		
	1 1/2" Terminal Post			40 WT	
Rails	N/A - 1/8" Bussing		Rails		
	Top Bottom Tension Wire				
Trim	-		Trim		
Gates	NO		Gates		
Misc.	-		Misc.		

- ☐ All gates with steel-welded no sag frame ☐ Other
- ☐ All wood materials natural / no stain
- ☐ Take down and removal of existing **N/A**
- ☐ Price does not include disposal of cement bases - Add \$30. per base for disposal.

### LAYOUT:

F Indicates Facing of Fence

**X 4-5' path to be cleared X**

**X all posts to be provided X**

**X access to site to be opened by**

**(pen the plan) Customer**

### THANK YOU FOR CONSIDERING RELIABLE FENCE

We Propose hereby to furnish materials and installation in accordance with the above specifications for the sum of:

\$ **See above**

BY: **Maureen Theriault**

Date: **05/25/07**

This Proposal may be withdrawn by RFC if not accepted within 10 days

Acceptance of Proposal The above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work as specified. Payment will be made as indicated. All materials remain the property of R.F.C. until final payment is received. I understand that cancellation may be subject to a service charge.

**X Nicholas J. Decoulos Tree**

Date: **5-24-07**



COMMONWEALTH OF MASSACHUSETTS  
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DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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Commissioner

**MAY 24 2007**

**Certified Mail**  
**#7006 2760 0000 4035 2437**

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

Attention: Mr. Nicholas J. Decoulos

RE: **Danvers**  
**Former Creese & Cook Tannery**  
**RTNs: 3-12711/& 3-26474 ✓**  
**IRA Conditional Approval Letter**  
**Designation of Interim Deadlines**

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) has received an Immediate Response Action (IRA) Plan Modification, which was completed for the Former Creese & Cook Tannery Site, located at 25 Clinton Avenue in Danvers (Property). The IRA Plan Modification was prepared by Woodard and Curran (W&C) on behalf of the Orchard Farm Trust, and was received by MassDEP on May 9, 2007. The modified IRA Plan (May 2007 IRA Plan) will involve the installation of fencing around areas of the Property which have been shown to present an Imminent Hazard (IH) to human health due to arsenic and dioxin in surface soils. To ensure no impact to the human health of workers and people in the surrounding community the plan implements dust control measures and decontamination procedures during the fence installation. The May 2007 IRA Plan states that the work will commence as soon as MassDEP provides approval. This letter documents the history of deadlines that the Orchard Farm Trust has previously missed to complete work required by MassDEP on this Property, provides MassDEP's Conditional Approval of the May 9, 2007 modified IRA Plan, and establishes Interim Deadlines for the completion of all of the work required by MassDEP on this Property.

### **Background**

On December 26, 2006, the Orchard Farm Trust submitted a modified IRA Plan (December 2006 IRA Plan) including an IH Evaluation, and an asbestos abatement plan for this Property. The Licensed Site Professional Opinion concluded that an IH exists due to arsenic and dioxin in surface soils (RTN 3-12711). In order to prevent human contact with these soils, the Orchard Farm Trust proposed installing fencing surrounding these areas by the end of February 2007. The December 2006 IRA Plan also included an asbestos abatement plan. This plan was completed by Enviro-Safe Engineering. Asbestos Containing Material (ACM) was identified on the Property on December 14, 2006 in the vicinity of the former Beamhouse, and MassDEP issued RTN 3-26474 for this release condition. The December 2006 IRA Plan described how the ACM and other construction debris would be evaluated and disposed of, and how the removal activities would be conducted to prevent exposure to the surrounding human population. Orchard

**Former Creese & Cook Tannery  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 2 of 4**

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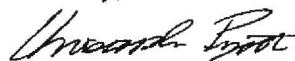
**Former Creese & Cook Tannery  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 3 of 4**

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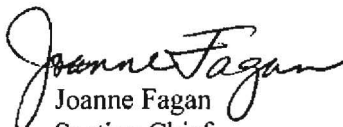
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If you have any questions relative to this letter, please contact Christopher Pyott at the letterhead address or (978) 694-3353.

Sincerely,



Christopher Pyott  
Environmental Analyst  
Brownfields/Permits



Joanne Fagan  
Section Chief  
Brownfields/Permits

Former Creese & Cook Tannery  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 4 of 4

cc via mail:

Data Management (C&E Intlet) *IRA/APWBT*

Woodard & Curran, 35 New England Business Center, Andover, MA 01810

Attn: Mr. David MacDonald

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James N. Decoulos, 39 Cross Street, Peabody, MA 01960

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Secretary

ARLEEN O'DONNELL  
Commissioner

MAY 24 2007

**Certified Mail**

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Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

Attention: Mr. Nicholas J. Decoulos

RE: Danvers  
Former Creese & Cook Tannery  
RTNs: 3-12711 & 3-26474  
IRA Conditional Approval Letter  
Designation of Interim Deadlines

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) has received an Immediate Response Action (IRA) Plan Modification, which was completed for the Former Creese & Cook Tannery Site, located at 25 Clinton Avenue in Danvers (Property). The IRA Plan Modification was prepared by Woodard and Curran (W&C) on behalf of the Orchard Farm Trust, and was received by MassDEP on May 9, 2007. The modified IRA Plan (May 2007 IRA Plan) will involve the installation of fencing around areas of the Property which have been shown to present an Imminent Hazard (IH) to human health due to arsenic and dioxin in surface soils. To ensure no impact to the human health of workers and people in the surrounding community the plan implements dust control measures and decontamination procedures during the fence installation. The May 2007 IRA Plan states that the work will commence as soon as MassDEP provides approval. This letter documents the history of deadlines that the Orchard Farm Trust has previously missed to complete work required by MassDEP on this Property, provides MassDEP's Conditional Approval of the May 9, 2007 modified IRA Plan, and establishes Interim Deadlines for the completion of all of the work required by MassDEP on this Property.

**Background**

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**Former Creese & Cook Tannery  
IRA Conditional Approval Letter  
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Page 2 of 4**

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**Former Creese & Cook Cannery  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
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Environmental Analyst  
Brownfields/Permits



Joanne Fagan  
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**Former Creese & Cook Tannery  
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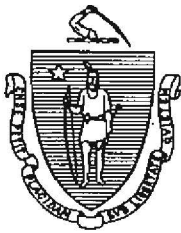
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ARLEEN O'DONNELL  
Commissioner

MAY 24 2007

**Certified Mail**

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Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

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RE: Danvers  
Former Creese & Cook Tannery  
RTNs: 3-12711 & 3-26474  
IRA Conditional Approval Letter  
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BC: 01887294103

\*0121-05085-24-38

IAN A. BOWLES  
Secretary

ARLEEN O'DONNELL  
Commissioner

MAY 24 2007

**Certified Mail**

#7006 2760 0000 4035 2437

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

RE: **Danvers**  
**Former Creese & Cook Tannery**  
**RTNs: 3-12711 & 3-26474**  
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**Designation of Interim Deadlines**

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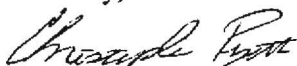
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- Within 60 days of the date of this letter, the Orchard Farm Trust must complete the required upland soils sampling, along with an IH Evaluation, to determine if any of these areas also pose an IH to human health. These areas include the entire northwestern portion of the Property between the Beamhouse and Route 128 and the entire southeastern portion of the Property between the Beamhouse and Clinton Avenue.
- Within 60 days of the date of this letter, the Orchard Farm Trust must submit an IRA Status Report including an IH Evaluation for upland soils, as well as documentation of the fencing and sign installations.

It should be noted that as an alternative to fencing the four areas currently identified as posing an IH, the Orchard Farm Trust may choose to construct and maintain fencing surrounding the entire site, and maintain a cover over the asbestos containing construction debris. In this case signage will still be required on the fencing and along the shoreline to notify the public of the hazards associated with contacting the contaminated soil and sediment. This solution should abate the IH, but the Orchard Farm Trust is still required to investigate and cleanup this property to achieve a condition of No Significant Risk in compliance with the Massachusetts Contingency Plan.

If you have any questions relative to this letter, please contact Christopher Pyott at the letterhead address or (978) 694-3353.

Sincerely,



Christopher Pyott  
Environmental Analyst  
Brownfields/Permits



Joanne Fagan  
Section Chief  
Brownfields/Permits

**Former Creese & Cook Tannery  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 4 of 4**

**cc via mail:**

Data Management (C&E/Intlet)

Woodard & Curran, 35 New England Business Center, Andover, MA 01810

Attn: Mr. David MacDonald

Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923

Attn: Mr. Peter Mirandi

Mr. Anthony G. Keck, 222 Essex Street, Salem, MA 01970

Mr. William F. O'Connor, 16 South Main Street, Topsfield, MA 01983

Mary Jean DiStefano, 39 Cross Street, Peabody, MA 01960

Joseph DiStefano, 39 Cross Street, Peabody, MA 01960

Francis J. Bresnahan, 39 Cross Street, Peabody, MA 01960

James N. Decoulos, 39 Cross Street, Peabody, MA 01960



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

IAN A. BOWLES  
Secretary

ARLEEN O'DONNELL  
Commissioner

**MAY 24 2007**

**Certified Mail**  
**#7006 2760 0000 4035 2437**

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

Attention: Mr. Nicholas J. Decoulos

RE: **Danvers**  
**Former Creese & Cook Tannery**  
**RTNs: 3-12711 & 3-26474**  
**IRA Conditional Approval Letter**  
**Designation of Interim Deadlines**

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) has received an Immediate Response Action (IRA) Plan Modification, which was completed for the Former Creese & Cook Tannery Site, located at 25 Clinton Avenue in Danvers (Property). The IRA Plan Modification was prepared by Woodard and Curran (W&C) on behalf of the Orchard Farm Trust, and was received by MassDEP on May 9, 2007. The modified IRA Plan (May 2007 IRA Plan) will involve the installation of fencing around areas of the Property which have been shown to present an Imminent Hazard (IH) to human health due to arsenic and dioxin in surface soils. To ensure no impact to the human health of workers and people in the surrounding community the plan implements dust control measures and decontamination procedures during the fence installation. The May 2007 IRA Plan states that the work will commence as soon as MassDEP provides approval. This letter documents the history of deadlines that the Orchard Farm Trust has previously missed to complete work required by MassDEP on this Property, provides MassDEP's Conditional Approval of the May 9, 2007 modified IRA Plan, and establishes Interim Deadlines for the completion of all of the work required by MassDEP on this Property.

### **Background**

On December 26, 2006, the Orchard Farm Trust submitted a modified IRA Plan (December 2006 IRA Plan) including an IH Evaluation, and an asbestos abatement plan for this Property. The Licensed Site Professional Opinion concluded that an IH exists due to arsenic and dioxin in surface soils (RTN 3-12711). In order to prevent human contact with these soils, the Orchard Farm Trust proposed installing fencing surrounding these areas by the end of February 2007. The December 2006 IRA Plan also included an asbestos abatement plan. This plan was completed by Enviro-Safe Engineering. Asbestos Containing Material (ACM) was identified on the Property on December 14, 2006 in the vicinity of the former Beamhouse, and MassDEP issued RTN 3-26474 for this release condition. The December 2006 IRA Plan described how the ACM and other construction debris would be evaluated and disposed of, and how the removal activities would be conducted to prevent exposure to the surrounding human population. Orchard

**Former Creese & Cook Tannery  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 2 of 4**

Farm Trust stated that the ACM and associated construction debris, weather permitting, would be removed by the end of February 2007.

**History of Noncompliance**

- On January 11, 2007, MassDEP issued an IRA Conditional Approval Letter to Orchard Farm Trust that designated Interim Deadlines of January 25, 2007 for the submittal of a revised asbestos abatement plan, February 10, 2007 for the installation of fencing and the posting of signage surrounding areas that posed an IH, and March 12, 2007 for the completion of sampling and the submittal of an IRA Status Report that evaluated upland soils for IH conditions. The Orchard Farm Trust failed to complete the required work by deadlines specified in MassDEP's January 11, 2007 letter.
- On February 27, 2007, MassDEP issued a Notice of Response Action/Notice of Intent to Mobilize letter to the Orchard Farm Trust. The letter stated that if the Orchard Farm Trust did not agree to conduct the IRA by March 9, 2007, MassDEP would conduct the necessary response actions and seek to recover its costs. This letter established deadlines of March 15, 2007 for submittal of the revised asbestos abatement plan, March 31, 2007 for installation of fencing and signage surrounding IH areas, March 31, 2007 for the completion of sampling and analytical work in upland areas, and April 15, 2007 for the submittal of an IRA Status Report and IH Evaluation.
- On March 9, 2007, the Orchard Farm Trust notified MassDEP of its intent to conduct the IRA activities required by MassDEP's February 27, 2007 notice. In a subsequent letter dated March 13, 2007, the Orchard Farm Trust requested that all of these deadlines be extended for 1-month.
- On April 11, 2007 MassDEP issued an Administrative Consent Order (ACO) to the beneficiaries of the Orchard Farm Trust. The ACO established a deadline of April 30, 2007 for submittal of a Tier IC Permit Extension Application, a deadline of April 30, 2007 for the submittal of a revised asbestos abatement plan, a deadline of April 30, 2007 to install fencing and post signs surrounding areas that pose an IH to human health, a deadline of April 30, 2007 to complete sampling and analysis of surface soils in upland areas, and a deadline of June 15, 2007 for submittal of an IRA Status Report and IH Evaluation for upland soils. The Orchard Farm Trust has not entered into the ACO.
- To date, Orchard Farm Trust has failed to conduct the necessary IRA activities outlined above, and has failed to submit a Tier IC Permit Extension Application. MassDEP reserves all rights to exercise the full extent of its legal authority to address Orchard Farm Trust's history of noncompliance with M.G.L.C. 21E and the Massachusetts Contingency Plan, 310 CMR 40.0000.

**MassDEP Conditional Approval**

MassDEP approves of the May 2007 IRA Plan modification, subject to the conditions and deadlines listed in this letter. The deadlines listed in this letter are established as Interim Deadlines pursuant to 310 CMR 40.0167. **Immediately upon Orchard Farm Trust's noncompliance with any deadline listed in this letter, this Conditional Approval will be revoked. The revocation applies to all conditions identified below.** MassDEP will then proceed with a state-funded action to construct a six-foot chain link fence surrounding the entire site, and will implement a maintenance schedule to ensure the fencing remains in tact and the asbestos containing construction debris continues to be covered. MassDEP's conditions of approval are listed below.

**Former Creese & Cook Tank  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 3 of 4**

- Within 7 days of the date of this letter, the Orchard Farm Trust must provide MassDEP with a signed contract with a fencing company to complete the proposed fencing installations.
- Within 14 days of the date of this letter the Orchard Farm Trust must submit a revised asbestos abatement plan. The revised plan must include all of the detailed asbestos removal information specified in MassDEP's January 11, 2007 letter in order to ensure protection of human health during the management and removal of building debris. The revised plan must present a timeline for characterization and removal of building debris, as well as a timeline for completion of the follow-up surface soil and IH Evaluation in the Beamhouse area once this debris is removed.
- Within 30 days of the date of this letter, the fencing must be installed surrounding the areas that pose an IH to human health, as identified in the IRA Plan modification. It is acceptable to MassDEP to construct the 6-foot chain link fencing with tension wires along the top and bottom of this fencing instead of railings. The fencing must be inspected and maintained on a regular basis to ensure restricted access to these areas.
- Within 30 days of the date of this letter, signs must be posted on the fencing to notify potential trespassers of the risks posed by the contaminated soils. Signs shall also be placed along the shoreline to notify potential trespassers of the risks posed by contact with the contaminated sediment.
- Within 60 days of the date of this letter, the Orchard Farm Trust must complete the required upland soils sampling, along with an IH Evaluation, to determine if any of these areas also pose an IH to human health. These areas include the entire northwestern portion of the Property between the Beamhouse and Route 128 and the entire southeastern portion of the Property between the Beamhouse and Clinton Avenue.
- Within 60 days of the date of this letter, the Orchard Farm Trust must submit an IRA Status Report including an IH Evaluation for upland soils, as well as documentation of the fencing and sign installations.

It should be noted that as an alternative to fencing the four areas currently identified as posing an IH, the Orchard Farm Trust may choose to construct and maintain fencing surrounding the entire site, and maintain a cover over the asbestos containing construction debris. In this case signage will still be required on the fencing and along the shoreline to notify the public of the hazards associated with contacting the contaminated soil and sediment. This solution should abate the IH, but the Orchard Farm Trust is still required to investigate and cleanup this property to achieve a condition of No Significant Risk in compliance with the Massachusetts Contingency Plan.

If you have any questions relative to this letter, please contact Christopher Pyott at the letterhead address or (978) 694-3353.

Sincerely,



Christopher Pyott  
Environmental Analyst  
Brownfields/Permits



Joanne Fagan  
Section Chief  
Brownfields/Permits

**Former Creese & Cook Tannery  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 4 of 4**

**cc via mail:**

Data Management (C&E/Intlet)

Woodard & Curran, 35 New England Business Center, Andover, MA 01810

Attn: Mr. David MacDonald

Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923

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Francis J. Bresnahan, 39 Cross Street, Peabody, MA 01960

James N. Decoulos, 39 Cross Street, Peabody, MA 01960



The Commonwealth of Massachusetts  
Department of Environmental Protection  
Northeast Regional Office  
205 B Lowell Street  
Wilmington, Massachusetts 01887

NORTHEAST REGIONAL OFFICE

DEP

MAY 30 2007

RECEIVED

Joseph DiStefano  
39 Cross Street  
Peabody, MA 01960

NIXIE 019 DE 1 00 03/29/07

RETURN TO SENDER  
INSUFFICIENT ADDRESS  
UNABLE TO FORWARD

BC: 01967294105 \*0121-03094-24-00

0196001070-6000

|||||01967294105|||||

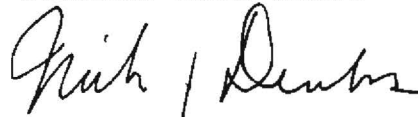


SCANNED

A copy of the site plan depicting the area to be fenced is enclosed along with a copy of the Request for Proposals for the signs to be attached to the fence.

Very truly yours,

Orchard Farm Trust



Nicholas J. Decoulos, Trustee

NJD:aw  
Enclosures

# Reliable FENCE CO.

*The Fence People*

To: Nick Decoufus  
From: Mark Theriault  
RE: Danvers Ma project: behind BJ's Theatre area. Old tannery \*\*ADD ON\*\*

05/01/07

Option 1: add on a double drive gate

- install (1) 6' x 14-16ft wide double drive gate. 2" steel framework. Includes a drop rod and a latch system. Locks by others.
- Set off 4" SS40 wt galvanized pipe

Installed price: \$1,250.00 (if done at the same time as the fence)

Nick,

The order has been received and processed. It is currently on the board for the week of the June 25. Please let me know when the lines will be cleared of trees and staked out so we can get in there with no delays

Please call with any questions

*Mark Theriault*

Mark Theriault  
VP of operations

Quote based on the following:

- All underground utilities to be marked out prior G.C. Please call DIGSAFE. (1-800-DIG SAFE.)
- Normal truck access to fence lines.
- Fence line to be clear of all debris. (IE: trees, shrubs, boulder, Boulder.)
- All permits to be obtained by G.C. Owner.
- Water/Power to be supplied by GC/Owner. If not present, RFC to be advised ahead of time.
- RFC uses open shop labor only.
- Site visit required for price to hold.
- Standard payment terms are 50% deposit/C.O.D. or P.O. max NET 30 with approved credit.
- Job is limited to scope of work as outlined.
- GC/Owner responsible for establishing Fence lines.

781-933-9363

283 Salem St. Woburn, MA  
9304

Fax 781-933-

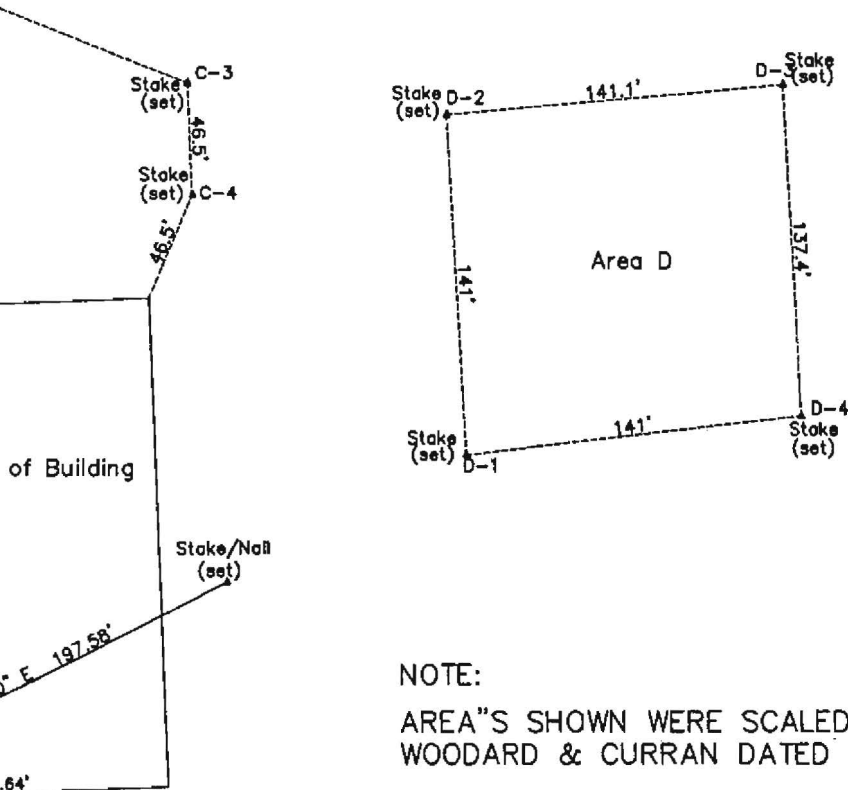
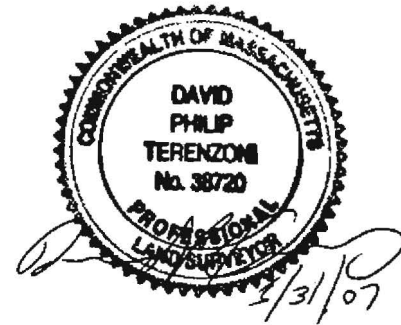
# PLOT PLAN OF LAND

## 25 CLINTON AVENUE DANVERS, MA.

SHOWING  
AREA'S TO BE FENCED

SCALE: 1" = 80'

DATE: MAY 31, 2007



NOTE:

AREA'S SHOWN WERE SCALED FROM A PLAN BY  
WOODARD & CURRAN DATED FEBRUARY 2007.

**ORCHARD FARM TRUST**  
**39 Cross Street, Suite 204**  
**Peabody, MA 01960-1666**  
**978-532-1020**  
**e-mail: decouloslaw@verizon.net**

SCANNED

**REQUEST FOR PROPOSALS**

The Orchard Farm Trust is soliciting proposals for eighteen (18) signs made of .04 gauge white aluminum measuring 12 x 18. Each sign shall have one-quarter (1/4) inch holes in each corner of the sign and the lettering to be applied shall be black. Samples of the proposed signs are attached, twelve (12) of which shall contain the "arsenic hazard warning" and six (6) of which shall contain the "heavy metals hazard warning".

Proposals shall be submitted via e-mail and will be accepted any time up to and including June 15, 2007.

Please direct all questions and information requests to Nicholas J. Decoulos, 978-532-1020.

694-3496

# Reliable

## FENCE CO.

*The Fence People*

To: Nick Decoulos  
 From: Mark Theriault  
 RE: Danvers Ma project: behind BJ's/Theatre area. Old tannery

05/01/07

- Option1; 2100ft of 6ft all galvanized chain link fence. 4 separate areas.
- 2" line posts 2 1/2" Terminal posts. 40wt galvanized pipe. Pounded into the soil.
  - 1 5/8" bracing at all 90 degree corners.
  - Top and bottom tension wire
  - #11 gauge/2" galvanized chain link mesh.
  - No gates

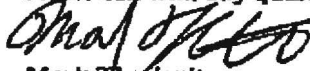
Installed price; \$11.00 per ft.

**Notes:**

1. Job to be done all at once.
2. All lines to be cleared of trees and brush. By customer. 4-5ft path.
3. access in to be opened up (by customer (IE move rocks away)
4. Job to be staked prior to installation
5. Wire is special order. Takes 2-3 weeks to get. All special order require a 50% deposit. (\$11,550+/-)
6. No digging involved. All posts to be pounded into the soil
7. RFC is running 3-4 weeks upon receipt of deposit. Timeframes can change without notice do to increase in workload expected in the up coming weeks.

Sign here to proceed: \_\_\_\_\_

Please call with any questions



Mark Theriault  
 VP of operations

Quote based on the following:

- All underground utilities to be marked out prior G.C. Please call DIGSAFE. (1-800-DIG SAFE.)
- Normal truck access to fence lines.
- Fence line to be clear of all debris. (IE: trees, shrubs, boulder, Boulder.)
- All permits to be obtained by G.C. Owner.
- Water/Power to be supplied by GC/Owner. If not present, RFC to be advised ahead of time.
- RFC uses open shop labor only.
- Site visit required for price to hold.
- Standard payment terms are 50% deposit/C.O.D. or P.O. max NET 30 with approved credit.
- Job is limited to scope of work as outlined.
- GC/Owner responsible for establishing Fence lines.

FACSIMILE TRANSMITTAL 978  
 DATE 5-2-07 FAX 694-3496  
 TO Chris Pyatt  
 FROM DECOULOS & DECOULOS  
 (878) 632-1020 FAX (878) 631-0830

781-933-9363

283 Salem St. Woburn, MA  
 9304

Fax 781-933-

Law Office of  
**NICHOLAS J. DECOULOS**  
39 Cross Street (Suite 204)  
Peabody, Massachusetts 01960-1666  
Telephone (978) 532-1020

SCANNED

Nicholas J. Decoulos (Ext. 12)

E-Mail: decouloslaw@verizon.net

File No. 5485

April 9, 2007

VIA FACSIMILE: 978-694-3496  
Heidi Zeich, Esquire

Dear Ms. Zeich:

Pursuant to our telephone discussion of this morning,  
please be advised that the names and addresses of the  
attorneys representing the remaining beneficiaries are as  
follows:

Anthony G. Keck, Esquire  
222 Essex Street  
Salem, MA 01970

William F. O'Connor Esquire  
16 South Main Street  
Topsfield, MA 01983

If you have any other questions, do not hesitate to  
call me.

Very truly yours,

*J. Decoulos*  
J. Decoulos

4/10/07 Nick Decoulos  
Beneficiaries —

1. Mary Jean DiStefano, beneficiary of Orchard Farm Trust
2. Joseph DiStefano
3. Francis J. Bresnahan
4. Nicholas J. Decoulos
5. James N. Decoulos.



DEPARTMENT OF ENVIRONMENTAL PROTECTION  
METROPOLITAN BOSTON-NORTHEAST REGIONAL OFFICE  
205B LOWELL STREET, WILMINGTON, MA 01887

ATTENDANCE SHEET

MEETING PURPOSE: STATUS - Former Creese + Cook Tannery  
DATE: 3/16/07 CONFERENCE ROOM: \_\_\_\_\_ POINT OF CONTACT: Chris Pyott

NAME	ORGANIZATION	ADDRESS	TELEPHONE NO.
1. William F. O'Connor	The O'Connor Law Firm	16 Salem St Tapscott, MA 01867	(978) 887-5308
2. Nicholas J. Deconibus Atty.		39 Cross St Peabody	978 532-1020
3. David MacDonald	Woodard & Curran	35 New England Bus Ctr, Andover, MA	
4. Chas Pyott	MASS DEP	205B Lowell St Wilmington	(978) 557-8150 → (978) 694-3352
5. Joanne Fagan	MASS DEP	205B Lowell St, Wilmington	978-694-3390
7. Ed Walsh	MIRA	72 Jouslin Rd, Wilmington MA	(978) 658-2232
8. _____			
9. _____			
10. _____			
11. _____			
12. _____			
13. _____			

SCANNED

SCANNED

March 13, 2007



Massachusetts Department of Environmental Protection  
Attn: Christopher Pyott  
205B Lowell Street  
Wilmington, MA 01887

RE: Request for Interim Deadline Extension  
Former Creese & Cook Tannery, 25 Clinton Avenue, Danvers, MA  
RTNs: 3-0303 & 3-12711

Dear Chris:

In accordance with 310 CMR 40.0167(2) of the Massachusetts Contingency Plan (MCP; 310 CMR 40.0000) and as indicated in our letter of March 9, 2007 specifying Orchard Farm Trust's intention to conduct response actions, this letter is being sent to provide a written request to extend Interim Deadlines for the site referenced above. The Interim Deadlines were established in the Massachusetts Department of Environmental Protection's (MassDEP) Notice of Response Action; Notice of Intent to Mobilize; and Interim Deadlines letter dated February 27, 2007. The proposed extensions are as follows:

- A. Submittal of a revised asbestos abatement plan from March 15, 2007 to **April 15, 2007** to allow for an adequate assessment of the presence and extent of asbestos by licensed abatement planners and contractors, which, until recently, has been infeasible due to the presence of snow at the site.
- B. Installation of fencing and signage from March 31, 2007 to **April 31, 2007** to allow for further thawing of a frost layer in soil at the site. Frozen ground conditions at the site have rendered soils inaccessible therefore reducing the risks to potential trespasser receptors.
- C. Completion of sampling and analytical work in the upland areas from March 31, 2007 to **April 31, 2007** to ensure adequate thawing for representative shallow soil sample collection. It is estimated that an approximate 1-foot thick layer of frost remains at the site at this time.
- D. Submittal of an Immediate Response Action Status Report, including an Imminent Hazard Evaluation for the upland soils, as well as documentation of completion of the fencing and sign installation from April 15, 2007 to **May 15, 2007** to allow for completion of Items A through D.

Please notify me of your decision at your earliest possible convenience.

Sincerely,  
WOODARD & CURRAN INC.

David R. MacDonald, PG, LSP  
Senior Project Manager

cc: Nicholas J. Decoulos, Attorney/Orchard Farm Trust  
Andover Project File



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE  
205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

SCANNED

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

IAN A. BOWLES  
Secretary

ARLEEN O'DONNELL  
Commissioner

**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**  
**Certified Mail: Return Receipt Requested**

**Certified Mail**  
**#7006 2760 0004 9642 0711**

**FEBRUARY 27, 2007**

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

RE: **Danvers, Former Creese & Cook Tannery**  
**RTNs: 3-0303 & 3-12711**  
**Notice of Response Action**

Attention: Mr. Nicholas J. Decoulos

**NOTICE OF RESPONSE ACTION; NOTICE OF INTENT TO MOBILIZE;**  
**And INTERIM DEADLINES; M.G.L. c. 21E & 310 CMR 40.0000**

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) recently issued a Conditional Approval letter dated January 11, 2007 for an Immediate Response Action (IRA) Plan for the site listed above. The IRA Plan was submitted by Woodard and Curran on behalf of the Orchard Farm Trust, and was received by MassDEP on December 26, 2006. The IRA Plan presented a Scope of Work for the removal of asbestos containing building debris from the former Beamhouse area, and the installation of fencing around specified areas of the property to prevent trespassers from being exposed to contaminated surface soils that had been identified as posing an Imminent Hazard (IH) to human health.

In the letter dated January 11, 2007, MassDEP established an Interim Deadline of January 25, 2007 for submittal of a revised asbestos removal plan, an Interim Deadline of February 10, 2007 for construction of the fencing and the posting of signs surrounding areas of concern, and an Interim Deadline of March 12, 2007 for completion of a surface soils investigation and an IH Evaluation in upland areas of the property. To date, no revised asbestos abatement plan has been submitted, the fencing and sign work has not been completed, and the upland surface soils investigation has not been initiated. The Orchard Farm Trust is now subject to higher-level enforcement, because of noncompliance with established Interim Deadlines.

**RESPONSE ACTIONS TO BE TAKEN BY MassDEP**

On or after March 9, 2007 MassDEP intends to conduct response actions at the former Creese & Cook Tannery in order to abate a potential IH due to asbestos containing material in building debris, abate a known IH due to arsenic and dioxin in surface soils and sediments, and investigate additional potential IH conditions in upland areas of the property. The response actions will include at a minimum:

- A. Fencing will be installed around the former landfills, the former lagoon area, and an upland fill pile located between the former Beamhouse and Route 128. Signs will be posted on the fencing and along the shoreline to notify potential trespassers of the IH conditions that have been identified in the surface soils and sediments due to elevated concentrations of arsenic and dioxin.
- B. Fencing will be installed around the former Beamhouse to minimize the potential for human contact with asbestos containing building debris. The debris will be covered to ensure that asbestos containing debris does not become airborne. MassDEP prefers removal of the building debris from the property, but will not complete a removal action.
- C. A detailed sampling program will be completed in upland areas, because surface soil contamination that could pose an IH may be present. These areas include the entire northwestern portion of the property between the Beamhouse and Route 128 and the entire southeastern portion of the property between the Beamhouse and Clinton Avenue.

MassDEP will initiate the response actions described above unless you notify MassDEP in writing by **5:00 p.m. on March 9, 2007** of your intention to conduct these activities. The notification must include a commitment to:

- A. Submit a revised asbestos abatement plan by **March 15, 2007**. The revised plan must include all of the detailed asbestos removal information specified in MassDEP's January 11, 2007 letter in order to ensure protection of human health during the management and removal of building debris. The revised plan must present a timeline for characterization and removal of building debris, as well as a timeline for completion of the follow-up surface soil and IH Evaluation in the Beamhouse area once this debris is removed.
- B. Install the fencing and signage described above by **March 31, 2007**.
- C. Complete the sampling and analytical work in upland areas by **March 31, 2007**.
- D. Submit an Immediate Response Action Status Report including an IH Evaluation for the upland soils, as well as documentation of completion of the fencing and sign installations, by **April 15, 2007**.

Should you fail to provide the notification and commitment to voluntarily undertake the required response actions and provide MassDEP with the submittals required above by the dates established above, or should you provide submittals that are deemed by MassDEP to be unacceptable, MassDEP will initiate these response actions and may initiate appropriate cost recovery and/or enforcement actions as described below. If at any time you wish to assume responsibility for these response actions after MassDEP has initiated them, you may do so only with the permission of MassDEP.

#### **LIABILITY AND TREBLE DAMAGES**

MassDEP continues to consider you potentially liable under M.G.L. c.21E for up to three times all response action costs incurred by MassDEP related to the site, and for damages to natural resources. If you fail to voluntarily take these remedial response actions, the Commonwealth has authority to place a lien on all your property within the Commonwealth to secure its response action costs. The Commonwealth, through the Attorney General, may foreclose on any such lien or bring legal action against you to recover its response

action costs. MassDEP and the Attorney General may also pursue other legal action under M.G.L. c.21E and M.G.L. c.21A Section 16 for violations of Chapter 21E and other laws, regulations, orders or approvals.

If you cannot perform these remedial response actions, you must submit a notice of financial, technical or legal inability as described in 310 CMR 40.0172 to secure yourself with a defense to treble damages. Even if you have a defense to treble damages, you will still be obligated to complete response actions that you are able to perform and continue to be liable for costs and damages.

Be advised that in addition to the specific response action requirements mentioned in this notification, you are responsible for conducting all additional 21E response actions which may be necessary to complete the cleanup of the releases and threats of release for which you have been notified of your potential responsibility in accordance with the MCP. The subject releases/threats of release shall not be deemed to have had all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c.21E and the MCP. These response actions may include but are not limited to Comprehensive Response Actions and additional Immediate Response Actions.

If you have any questions relative to this notice, please contact Christopher Pyott at the letterhead address or (978) 694-3353. All future communications regarding this release must reference the Release Tracking Numbers 3-0303 and 3-12711.

Sincerely,

Stephen M. Johnson,  
Acting Deputy Regional Director  
Bureau of Waste Site Cleanup

**cc via mail:**  
Data Management (C&E/Intlet; C&E/NORA)

**cc via e-mail**  
Woodard & Curran, 35 New England Business Center, Andover, MA 01810  
Attn: Mr. David MacDonald  
Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923  
Attn: Mr. Peter Mirandi

File Copy 3B



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

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Lieutenant Governor

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Secretary

ARLEEN O'DONNELL  
Commissioner

**Certified Mail**  
**#7006 2760 0000 4035 0266**

**JANUARY 11, 2007**

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

RE: **Danvers**  
**Former Creese & Cook Tannery**  
**RTNs: 3-12711 & 3-26474**  
**IRA Conditional Approval Letter**  
**Designation of Interim Deadlines**

Attention: Mr. Nicholas J. Decoulos

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) has received an Immediate Response Action Status Report, which was completed for the Former Creese & Cook Tannery Site, located at 25 Clinton Avenue in Danvers. The report was submitted by Woodard and Curran (W&C) on behalf of the Orchard Farm Trust, and was received by MassDEP on December 26, 2006. The report was submitted to MassDEP in response to an Immediate Response Action (IRA) Plan Denial/Notice of Response Action Letter dated October 25, 2006. The goal of the submittal is to bring the site back into compliance with the Massachusetts Contingency Plan, by submitting an Imminent Hazard Evaluation (IHE) for upland soils and sediment at the site, along with a work plan to abate the Imminent Hazard (IH) that has been identified by fencing specified areas of the property to prevent trespassers from being exposed to contaminated soils. The goal is also to present an asbestos abatement plan to remove and appropriately dispose of construction debris that exists in the area of the former Beamhouse.

**IRA PLAN AND PROPOSED ASBESTOS ABATEMENT PLAN**

**Upland Soils and Sediments – IRA PLAN**

W&C has completed an IHE for upland soils and sediments at the former Creese & Cook Tannery Site. The sampling collection and analysis and IHE were completed generally following the guidelines outlined in MassDEP's October 25, 2006 letter, and listed in the IRA Plan modification submitted to MassDEP by W&C on November 10, 2006. W&C concluded that chemicals of potential concern at the Site pose an IH and a risk to human health. The primary drivers of this risk are dioxin in surface soils in Landfill Area A and in upland soils in a fill pile located between Route 128 and the Beamhouse, and arsenic in surface soils in Landfill Area B. In order to prevent human contact with these soils, W&C proposes to install fencing surrounding these areas by the end of February 2007. Remediation of the soils in areas driving the IH will occur as part of Comprehensive Response Actions.

Former Creese & Cook Tanner  
IRA Conditional Approval Letter  
Designation of Interim Deadlines  
Page 4 of 4

cc via mail:

Data Management (C&E/Intlet) (IRA/APWRIT)

cc via e-mail

Woodard & Curran, 35 New England Business Center, Andover, MA 01810

Attn: Mr. David MacDonald

Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923

Attn: Mr. Peter Mirandi





Massachusetts Department of Environmental Protection  
Bureau of Waste Site Cleanup

BWSC-102A

Release Tracking Number

RELEASE LOG FORM ATTACHMENT

3 - 0303

A. LOG/RELEASE LOCATION INFORMATION: (complete if using BWSC-102A and 102B or BWSC-102A only)

City/Town: Danvers Date: 11/20/2006 Time:        ☐ AM ☐ PM

Release Address: 25 Clinton Avenue

Use of Attachment (check one): ☐ Amendment to Release Log Form ☐ Attachment Page(s):        of:       

B. ORAL PLAN SUMMARY: (check all that apply)

- |  |   |
|--|---|
| <input type="checkbox"/> Removal of Contaminated Soils   | <input type="checkbox"/> Deployment of Absorbent or Containment Materials |
| <input type="checkbox"/> Re-use or Recycling   | <input type="checkbox"/> Temporary Covers or Caps                         |
| <input type="checkbox"/> On Site <input type="checkbox"/> Off Site Volume: <u>      </u> cubic yards                                 | <input type="checkbox"/> Bioremediation                                   |
| <input type="checkbox"/> Treat <input type="checkbox"/> On Site <input type="checkbox"/> Off Site Volume: <u>      </u> cubic yards  | <input type="checkbox"/> Soil Vapor Extraction                            |
| Describe: <u>      </u>  | <input type="checkbox"/> Structure Venting System                         |
| <input type="checkbox"/> Store <input type="checkbox"/> On Site <input type="checkbox"/> Off Site Volume: <u>      </u> cubic yards  | <input type="checkbox"/> Product or NAPL Recovery                         |
| <input type="checkbox"/> Landfill <input type="checkbox"/> Cover <input type="checkbox"/> Disposal Volume: <u>      </u> cubic yards | <input type="checkbox"/> Groundwater Treatment Systems                    |
| <input type="checkbox"/> Removal of Drums, Tanks or Containers   | <input type="checkbox"/> Air Sparging                                     |
| Describe: <u>      </u>  | <input type="checkbox"/> Temporary Water Supplies                         |
| <input type="checkbox"/> Removal of Other Contaminated Media   | <input type="checkbox"/> Temporary Evacuation or Relocation of Residents  |
| Specify Type and Volume: <u>      </u>   | <input type="checkbox"/> Fencing and Sign Posting                         |
| <input type="checkbox"/> Other Response Actions Describe: <u>      </u>  |   |

☐ Check here if this Release or Threat of Release is a candidate for future presumptive approval of an IRA or RAM Written Plan.

Check one of the following: ☐ Oral IRA Plan Approval ☐ Oral RAM Plan Approval ☐ Oral IRA Plan Modification Approval

Other Comments:         
        
        
        
      

C. ADDITIONAL INVOLVED PERSON INFORMATION:

Check One: ☐ PRP ☐ PRP Local Contact ☐ Other Person Performing Response Action

☐ Other Relationship Specify:       

Name of Organization:       

Name of Contact:        Title:       

Street:        ☐ Check here if this person received a field NOR.

City/Town:        State:        ZIP Code:       

Telephone:        Ext.:        FAX:       

D. DEP ASSIGNMENT: (complete if using only BWSC-102A)

Preparer of RLFA (please print): Chris Pyott

Staff Lead Assigned (if different from preparer):       

☒ Check here if the Release or Threat of Release is unassigned. RTN 3-12711 is unassigned - Assign

☒ Check here if this RLFA records a change in staff lead. RTN 3-0303 - CHANGE From Mary Bester

SL = Pyott

EG

Chris Pyott Colby



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

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ROBERT W. GOLLEDGE, Jr.  
Secretary

ARLEEN O'DONNELL  
Commissioner

**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**  
**Certified Mail: Return Receipt Requested**

OCTOBER 25, 2006

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

Attention: Mr. Nicholas J. Decoulos

RE: **Danvers**  
**Former Creese & Cook Tannery**  
**RTNs: 3-0303 & 3-12711**  
**Immediate Response Action Plan Denial**  
**Notice of Response Action**

**IMMEDIATE RESPONSE ACTION PLAN DENIAL**  
**NOTICE OF RESPONSE ACTION; NOTICE OF INTENT TO MOBILIZE;**  
**And INTERIM DEADLINES; M.G.L. c. 21E & 310 CMR 40.0000**

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) has received and reviewed a document titled "Immediate Response Action Plan Modification and Status Report," which was completed for the Former Creese & Cook Tannery Site, located at 25 Clinton Avenue in Danvers. The document was completed by Woodard and Curran (W&C) on behalf of the Orchard Farm Trust; and was received by MassDEP on October 4, 2006. The report and Scope of Work were submitted to MassDEP in response to a Notice of Noncompliance (NON) dated August 4, 2006. The goal of the submittal is to bring the site back into compliance with the Massachusetts Contingency Plan, by submitting a modified Immediate Response Action (IRA) Plan, including a Scope of Work for additional data collection to facilitate the completion of an Imminent Hazard Evaluation (IHE) for upland soils and sediments in the Crane River.

**IRA PLAN MODIFICATION**

The report submitted by W&C provides information regarding historical property use as a tannery, summarized historical near surface soil and sediment quality data, and identified areas of the site where additional data should be collected in order to complete an appropriate IHE. W&C identified five distinct source/exposure areas including Landfill Area A, Landfill Area B, Lagoon Area C, the Beamhouse Area, and upland areas north and west of the former Beamhouse. W&C believes that review of the existing data indicates that limited data gaps are present, and provided a Scope of Work for data collection activities to fill these data gaps, and to complete an IHE.

The W&C Scope of Work proposes a variety of data collection activities to support the completion of an IHE. Building debris from the former Beamhouse will be tested and characterized by a licensed asbestos inspector. Soil samples will be collected from 11 locations from 0-1 foot below the ground surface in areas of concern and tested for cyanide and hexavalent chromium at all 11 locations, dioxin at 3 locations, and arsenic at 5 locations. No additional wetland sediment sampling was proposed at this time.

The results of the additional sampling will be added to the site database and used for completion of a site-specific IHE in accordance with the Massachusetts Contingency Plan (310 CMR 40.0955), in order to determine if site conditions actually pose an IH to human health. The IHE will also evaluate the need for containment or removal actions. W&C proposes to evaluate exposure of youth (age 6-18 years) trespassers/recreational receptors to arsenic and chromium within site soils. However, W&C believes that potential exposure of recreational receptors to site sediments within and adjacent to the Crane River is likely to be short in duration and frequency, so an IHE is not necessary for this area. Evaluation of potential exposures to site sediments will be included within the revised Phase II site investigation and associated risk characterization.

#### **IRA PLAN MODIFICATION DENIAL**

MassDEP has reviewed the IRA Plan and proposed IHE evaluation for the Former Creese & Cook Tannery and determined it to be deficient in a variety of areas. As a result, MassDEP is denying the IRA Plan, in accordance with 310 CMR 40.0420(9). A review of the historical data set for the site indicates very limited data for surface soils over the majority of the property in all areas with the exception of the former Lagoon Area, for which surface soils have been extensively evaluated for the presence of arsenic and total chromium. Although significant data has been collected across the remainder of the entire site in other upland areas, the majority of this data included composite soil samples collected from depths of 0 to 4 feet or soil samples collected from 1-2 feet, and no soil samples have been collected from the 0-1 foot below grade zone that must be evaluated as part of an IHE.

**In order to fulfill the requirements listed in the August 4, 2006 Notice of Noncompliance, a revised IRA Plan must be submitted within 21 days of the date of this letter.** Specific guidance for data collection and analysis for each area of concern is outlined below. The sampling strategy is generally based on the establishment of 80 foot by 80 foot sampling grids in each upland area of concern, with discrete samples collected from the center of each sampling grid. In recognition of the expense of dioxin analysis MassDEP is only requiring dioxin testing at approximately 50 % of the locations. It should be recognized that a more detailed sampling for all contaminants of concern may be necessary in the future to identify potential threats to human health. A 24-point sediment-sampling grid established in the Crane River by Mr. Luke Fabbri, was used as the base for the prescribed sediment-sampling program. The historical data and the additional data outlined below must be collected and evaluated and used to complete the IHE for the upland areas of concern and the sediments of the Crane River in accordance with the Massachusetts Contingency Plan, 310 CMR 40.0955. The modified IRA Plan must identify laboratory analytical methods and detection limits for the contaminants of concern. EPA Method 8290 must be used to analyze for dioxin.

#### Landfill Area A

Landfill Area A is located to the north and east of the former Beamhouse. It covers an L shaped area that extends approximately 200 feet from the Beamhouse to the Crane River, and extends approximately 280 feet north to south along the Crane River Bank. Tannery waste and arsenic contaminated soils have been identified. A walking path travels along the northern part of this area. W&C proposes to collect 3 surface soil samples in this area and test the soil for hexavalent chromium and cyanide at all 3 locations and dioxin at 1 location. MassDEP believes that this limited data set will not be effective in evaluating the potential threat to human receptors. **A minimum of 12 sampling points must be established in a grid pattern over former Landfill Area A and soil samples must be collected at each location from a depth of 0 to 1 foot. Surface soil samples from all 12 locations must be tested for arsenic, total chromium, hexavalent chromium, and cyanide. A minimum of 6 sampling points spread out evenly throughout the grid must be tested for dioxin.**

#### Landfill Area B

Landfill Area B is located in the northeast corner of the property. Tannery waste, arsenic contaminated soil, and polyaromatic hydrocarbon contaminated soil have been identified in this area. A walking path is known to travel through this general area. W&C proposes that the potential for IH conditions from this area can be evaluated through the collection of 1 soil sample over 2 areas of contamination which are approximately 120 feet by 80 feet and 120 feet by 40 feet. W&C proposes to test this soil sample for hexavalent chromium and cyanide. MassDEP believes that this limited data set will not be effective in evaluating the potential threat to human receptors. **A minimum of 4 sampling points must be established in a grid pattern over former Landfill Area B and soil samples must be collected at each location from a depth of 0 to 1 foot from areas where contamination has been previously identified. Surface soil samples from all 4 locations must be tested for arsenic, total chromium, hexavalent chromium, and cyanide. One soil sample must be collected from each of the 2 areas and tested for dioxin.**

#### Lagoon Area C

Lagoon Area C is located southeast of the former Beamhouse, and the surface soils are known to be significantly contaminated with arsenic and chromium over an area of approximately 200 feet by 200 feet. A walking path was identified into this area from the southern side of the Lagoon Area. Although significant surface soil data is available for arsenic and total chromium, there is no data for other contaminants of concern. W&C proposes that data gaps in the former lagoon area can be filled through the collection and analysis of 2 additional soil samples, both of which will be tested for hexavalent chromium and cyanide, and one of which will be tested for dioxin. MassDEP believes that this limited data set will not be effective in evaluating the potential threat to human receptors from other potential contaminants of concern. **A minimum of 12 sampling points must be established in a grid pattern over former Lagoon Area C and soil samples must be collected at each location from a depth of 0 to 1 foot. Surface soil samples from all 12 locations must be tested for hexavalent chromium and cyanide. A minimum of 6 sampling points spread out evenly throughout the grid must be tested for dioxin.**

## Beamhouse

The Beamhouse is located in the central western portion of the property, and covers an approximate area of 200 feet by 200 feet. Arsenic contaminated soils are known to be located in part of this area, and potential asbestos contaminated materials may exist in the building demolition debris. The area is easily accessible and the presence of tents and beverage containers indicates that people are accessing this area. W&C proposes that data gaps in the former lagoon area can be filled through the collection and analysis of 3 additional soil samples, all of which are proposed to be tested for hexavalent chromium and cyanide, and one of which is proposed to be tested for dioxin. MassDEP believes that this limited data set will not be effective in evaluating the potential threat to human receptors. **A minimum of 12 sampling points must be established in a grid pattern over the former Beamhouse Area and soil samples must be collected at each location from a depth of 0 to 1 foot. Surface soil samples from all 12 locations must be tested for arsenic, total chromium, hexavalent chromium and cyanide. A minimum of 6 sampling points spread out evenly throughout the grid must be tested for dioxin.**

Another major concern in the Beamhouse Area is potential asbestos containing material. The building has been demolished and building materials have been left on site. W&C must provide details as to how the debris will be characterized. Bulk samples of suspect material should be collected and analyzed for asbestos by polarized light microscopy. A contingency plan must be presented to MassDEP which details what response will be taken if asbestos-containing material is identified, including a notification to MassDEP's Bureau of Waste Prevention.

## Upland Areas North and West of Beamhouse

Relatively small areas of arsenic contaminated soil have been identified north and west of the former Beamhouse. These areas are 80 feet by 40 feet, 60 feet by 30 feet, and 60 feet by 10 feet, respectively. Surface soils in these areas have not been previously evaluated. W&C proposes to evaluate surface soils in 2 of these 3 areas through the collection of 1 soil sample in each area. These samples are proposed to be tested for hexavalent chromium and cyanide. MassDEP believes that this limited data set will not be effective in evaluating the potential threat to human receptors. **One sampling point must be established in each area and soil samples must be collected at each location from a depth of 0 to 1 foot. Surface soil samples from all locations must be tested for arsenic, total chromium, hexavalent chromium, and cyanide. One soil sample from each area must be tested for dioxin**

Northwest of the former Beamhouse, several drums and 1 large above-ground storage tank were identified. These storage containers must be evaluated to determine their contents, and whether or not their presence on the property presents an IH to human health or a threat of release to the environment.

## Crane River

An IHE must be completed for sediments in the Crane River. As part of a sediment investigation completed by the former Licensed Site Professional, a Mr. Luke Fabbri, 24 sediment sampling stations were established and 24 sediment samples were collected in April 2005 and tested for arsenic. Samples must be collected from all of these stations and analyzed for total chromium, hexavalent chromium, and cyanide. Twelve of these locations spread equidistant throughout the grid must be tested for dioxin. In addition a sample must be collected of sediment directly at the outlet of the former lagoon drainage discharge pipe and tested for all of the contaminants of concern.



### NOTICE OF RESPONSE ACTION

A site walk of the property on Tuesday September 19<sup>th</sup>, 2006 revealed that access to the property is currently unrestricted, and there is a high potential that trespasser and/or recreational visitors are using the property. Several footpaths and biking trails exist on the property, evidence of overnight camping was identified in the Beamhouse area, and beverage containers were identified near the Crane River. There is a high potential for direct exposure of human receptors to building debris in the former Beamhouse Area, contaminated soils in former disposal areas, and sediment in the Crane River. Based on the above information, Immediate Response Actions must be initiated at this site in a timely and effective manner.

MassDEP will initiate the response actions described above unless you verbally notify MassDEP of your intentions to conduct these activities, **by 5:00 p.m. on November 3, 2006**. In addition to the verbal notification, you must provide a Modified IRA Plan **within 21 days of the date of this letter**. The modified IRA Plan must comply with all of the requirements listed in this letter, as well as the requirements previously listed in the August 4, 2006 NON.

The IH Evaluation must be completed in accordance with timeframes and requirements outlined in 310 CMR 40.0426 and 40.0950. **Within 60 days of the date of this letter**, an LSP Opinion must be submitted to the Department which determines whether an IH exists. The LSP Opinion must outline what steps have been taken to define if an IH exists, and if necessary a plan to remove and/or contain those areas that could pose an IH to human health, safety, public welfare or the environment. The IH Evaluation must evaluate exposures in compliance with 310 CMR 40.0953. The dates and times established for these actions are reasonable Interim Deadlines established pursuant to 310 CMR 40.0167. MassDEP's decision to establish one or more Interim Deadlines in accordance with 310 CMR 40.0167 is not subject to M.G.L. c. 30A or any other law governing adjudicatory proceedings.

Should you fail to voluntarily undertake the required response actions and provide MassDEP with the submittals required above by the Interim Deadlines established above, or should you provide submittals that are determined by MassDEP to be unacceptable, **MassDEP will initiate these response actions on or after November 3, 2006** and may initiate appropriate cost recovery and/or enforcement actions as described below. If at any time you wish to assume responsibility for these response actions after MassDEP has initiated them, you may do so only with the permission of MassDEP

### LIABILITY AND TREBLE DAMAGES

MassDEP continues to consider you potentially liable under M.G.L. c.21E for up to three times all response action costs incurred by MassDEP related to the site, and for damages to natural resources. If you fail to voluntarily take these remedial response actions, the Commonwealth has authority to place a lien on all your property within the Commonwealth to secure its response action costs. The Commonwealth, through the Attorney General, may foreclose on any such lien or bring legal action against you to recover its response action costs. MassDEP and the Attorney General may also pursue other legal action under M.G.L. c.21E and M.G.L. c.21A Section 16 for violations of Chapter 21E and other laws, regulations, orders or approvals.

If you can not perform these remedial response actions, you must submit a notice of financial, technical or legal inability as described in 310 CMR 40.0172 to secure yourself with a defense to treble damages. Even if you have a defense to treble damages, you will still be obligated to complete response actions that you are able to perform and continue to be liable for costs and damages.

**Former Creese & Cook Tanner  
Immediate Response Action Plan Denial  
Notice of Response Action  
Page 6 of 6**

Be advised that in addition to the specific response action requirements mentioned in this notification, you are responsible for conducting all additional 21E response actions which may be necessary to complete the cleanup of the releases and threats of release for which you have been notified of your potential responsibility in accordance with the MCP. The subject releases/threats of release shall not be deemed to have had all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c.21E and the MCP. These response actions may include but are not limited to Comprehensive Response Actions and additional Immediate Response Actions.

If you have any questions relative to this notice, please contact Christopher Pyott at the letterhead address or (978) 694-3353. All future communications regarding this release must reference the Release Tracking Numbers 3-0303 and 3-12711.

Sincerely,



Christopher Pyott  
Environmental Analyst  
Brownfields/Permits



Joanne Fagan  
Section Chief  
Brownfields/Permits

**cc via mail:**

Data Management (C&E/Intlet) / (CEE / NDPA) / (IRA / DNWRIT 3-12711)  
NDIM

**cc via e-mail**

Woodard & Curran, 35 New England Business Center, Andover, MA 01810

Attn: Mr. David MacDonald

Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923

Attn: Mr. Peter Mirandi



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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Commissioner

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**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**

**Certified Mail: Return Receipt Requested**

**Certified Mail**

#7006 2760 0004 9642 0711

FEBRUARY 27, 2007

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

RE: **Danvers, Former Creese & Cook Tannery**  
**RTNs: 3-0303 & 3-12711**  
**Notice of Response Action**

Attention: Mr. Nicholas J. Decoulos

**NOTICE OF RESPONSE ACTION; NOTICE OF INTENT TO MOBILIZE;**  
**And INTERIM DEADLINES; M.G.L. c. 21E & 310 CMR 40.0000**

Dear Mr. Decoulas:

The Massachusetts Department of Environmental Protection (MassDEP) recently issued a Conditional Approval letter dated January 11, 2007 for an Immediate Response Action (IRA) Plan for the site listed above. The IRA Plan was submitted by Woodard and Curran on behalf of the Orchard Farm Trust, and was received by MassDEP on December 26, 2006. The IRA Plan presented a Scope of Work for the removal of asbestos containing building debris from the former Beamhouse area, and the installation of fencing around specified areas of the property to prevent trespassers from being exposed to contaminated surface soils that had been identified as posing an Imminent Hazard (IH) to human health.

In the letter dated January 11, 2007, MassDEP established an Interim Deadline of January 25, 2007 for submittal of a revised asbestos removal plan, an Interim Deadline of February 10, 2007 for construction of the fencing and the posting of signs surrounding areas of concern, and an Interim Deadline of March 12, 2007 for completion of a surface soils investigation and an IH Evaluation in upland areas of the property. To date, no revised asbestos abatement plan has been submitted, the fencing and sign work has not been completed, and the upland surface soils investigation has not been initiated. The Orchard Farm Trust is now subject to higher-level enforcement, because of noncompliance with established Interim Deadlines.

**RESPONSE ACTIONS TO BE TAKEN BY MassDEP**

On or after March 9, 2007 MassDEP intends to conduct response actions at the former Creese & Cook Tannery in order to abate a potential IH due to asbestos containing material in building debris, abate a known IH due to arsenic and dioxin in surface soils and sediments, and investigate additional potential IH conditions in upland areas of the property. The response actions will include at a minimum:



- A. Fencing will be installed around the former landfills, the former lagoon area, and an upland fill pile located between the former Beamhouse and Route 128. Signs will be posted on the fencing and along the shoreline to notify potential trespassers of the IH conditions that have been identified in the surface soils and sediments due to elevated concentrations of arsenic and dioxin.
- B. Fencing will be installed around the former Beamhouse to minimize the potential for human contact with asbestos containing building debris. The debris will be covered to ensure that asbestos containing debris does not become airborne. MassDEP prefers removal of the building debris from the property, but will not complete a removal action.
- C. A detailed sampling program will be completed in upland areas, because surface soil contamination that could pose an IH may be present. These areas include the entire northwestern portion of the property between the Beamhouse and Route 128 and the entire southeastern portion of the property between the Beamhouse and Clinton Avenue.

MassDEP will initiate the response actions described above unless you notify MassDEP in writing by **5:00 p.m. on March 9, 2007** of your intention to conduct these activities. The notification must include a commitment to:

- A. Submit a revised asbestos abatement plan by **March 15, 2007**. The revised plan must include all of the detailed asbestos removal information specified in MassDEP's January 11, 2007 letter in order to ensure protection of human health during the management and removal of building debris. The revised plan must present a timeline for characterization and removal of building debris, as well as a timeline for completion of the follow-up surface soil and IH Evaluation in the Beamhouse area once this debris is removed.
- B. Install the fencing and signage described above by **March 31, 2007**.
- C. Complete the sampling and analytical work in upland areas by **March 31, 2007**.
- D. Submit an Immediate Response Action Status Report including an IH Evaluation for the upland soils, as well as documentation of completion of the fencing and sign installations, by **April 15, 2007**.

Should you fail to provide the notification and commitment to voluntarily undertake the required response actions and provide MassDEP with the submittals required above by the dates established above, or should you provide submittals that are deemed by MassDEP to be unacceptable, MassDEP will initiate these response actions and may initiate appropriate cost recovery and/or enforcement actions as described below. If at any time you wish to assume responsibility for these response actions after MassDEP has initiated them, you may do so only with the permission of MassDEP.

#### **LIABILITY AND TREBLE DAMAGES**

MassDEP continues to consider you potentially liable under M.G.L. c.21E for up to three times all response action costs incurred by MassDEP related to the site, and for damages to natural resources. If you fail to voluntarily take these remedial response actions, the Commonwealth has authority to place a lien on all your property within the Commonwealth to secure its response action costs. The Commonwealth, through the Attorney General, may foreclose on any such lien or bring legal action against you to recover its response

action costs. MassDEP and the Attorney General may also pursue other legal action under M.G.L. c.21E and M.G.L. c.21A Section 16 for violations of Chapter 21E and other laws, regulations, orders or approvals.

If you cannot perform these remedial response actions, you must submit a notice of financial, technical or legal inability as described in 310 CMR 40.0172 to secure yourself with a defense to treble damages. Even if you have a defense to treble damages, you will still be obligated to complete response actions that you are able to perform and continue to be liable for costs and damages.

Be advised that in addition to the specific response action requirements mentioned in this notification, you are responsible for conducting all additional 21E response actions which may be necessary to complete the cleanup of the releases and threats of release for which you have been notified of your potential responsibility in accordance with the MCP. The subject releases/threats of release shall not be deemed to have had all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c.21E and the MCP. These response actions may include but are not limited to Comprehensive Response Actions and additional Immediate Response Actions.

If you have any questions relative to this notice, please contact Christopher Pyott at the letterhead address or (978) 694-3353. All future communications regarding this release must reference the Release Tracking Numbers 3-0303 and 3-12711.

Sincerely,



Stephen M. Johnson,  
Acting Deputy Regional Director  
Bureau of Waste Site Cleanup

**cc via mail:**

Data Management (C&E/Intlet; C&E/NORA)

**cc via e-mail**

Woodard & Curran, 35 New England Business Center, Andover, MA 01810

Attn: Mr. David MacDonald

Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923

Attn: Mr. Peter Mirandi



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

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KERRY HEALEY  
Lieutenant Governor

ROBERT W. GOLLEDGE, Jr.  
Secretary

ARLEEN O'DONNELL  
Commissioner

**URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**  
**Certified Mail: Return Receipt Requested**

OCTOBER 25, 2006

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

Attention: Mr. Nicholas J. Decoulos

RE: **Danvers**  
**Former Creese & Cook Tannery**  
**RTNs: 3-0303 & 3-12711**  
**Immediate Response Action Plan Denial**  
**Notice of Response Action**

**IMMEDIATE RESPONSE ACTION PLAN DENIAL**  
**NOTICE OF RESPONSE ACTION; NOTICE OF INTENT TO MOBILIZE;**  
**And INTERIM DEADLINES; M.G.L. c. 21E & 310 CMR 40.0000**

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) has received and reviewed a document titled "Immediate Response Action Plan Modification and Status Report," which was completed for the Former Creese & Cook Tannery Site, located at 25 Clinton Avenue in Danvers. The document was completed by Woodard and Curran (W&C) on behalf of the Orchard Farm Trust; and was received by MassDEP on October 4, 2006. The report and Scope of Work were submitted to MassDEP in response to a Notice of Noncompliance (NON) dated August 4, 2006. The goal of the submittal is to bring the site back into compliance with the Massachusetts Contingency Plan, by submitting a modified Immediate Response Action (IRA) Plan, including a Scope of Work for additional data collection to facilitate the completion of an Imminent Hazard Evaluation (IHE) for upland soils and sediments in the Crane River.

**IRA PLAN MODIFICATION**

The report submitted by W&C provides information regarding historical property use as a tannery, summarized historical near surface soil and sediment quality data, and identified areas of the site where additional data should be collected in order to complete an appropriate IHE. W&C identified five distinct source/exposure areas including Landfill Area A, Landfill Area B, Lagoon Area C, the Beamhouse Area, and upland areas north and west of the former Beamhouse. W&C believes that review of the existing data indicates that limited data gaps are present, and provided a Scope of Work for data collection activities to fill these data gaps, and to complete an IHE.

## Beamhouse

The Beamhouse is located in the central western portion of the property, and covers an approximate area of 200 feet by 200 feet. Arsenic contaminated soils are known to be located in part of this area, and potential asbestos contaminated materials may exist in the building demolition debris. The area is easily accessible and the presence of tents and beverage containers indicates that people are accessing this area. W&C proposes that data gaps in the former lagoon area can be filled through the collection and analysis of 3 additional soil samples, all of which are proposed to be tested for hexavalent chromium and cyanide, and one of which is proposed to be tested for dioxin. MassDEP believes that this limited data set will not be effective in evaluating the potential threat to human receptors. **A minimum of 12 sampling points must be established in a grid pattern over the former Beamhouse Area and soil samples must be collected at each location from a depth of 0 to 1 foot. Surface soil samples from all 12 locations must be tested for arsenic, total chromium, hexavalent chromium and cyanide. A minimum of 6 sampling points spread out evenly throughout the grid must be tested for dioxin.**

Another major concern in the Beamhouse Area is potential asbestos containing material. The building has been demolished and building materials have been left on site. W&C must provide details as to how the debris will be characterized. Bulk samples of suspect material should be collected and analyzed for asbestos by polarized light microscopy. A contingency plan must be presented to MassDEP which details what response will be taken if asbestos-containing material is identified, including a notification to MassDEP's Bureau of Waste Prevention.

## Upland Areas North and West of Beamhouse

Relatively small areas of arsenic contaminated soil have been identified north and west of the former Beamhouse. These areas are 80 feet by 40 feet, 60 feet by 30 feet, and 60 feet by 10 feet, respectively. Surface soils in these areas have not been previously evaluated. W&C proposes to evaluate surface soils in 2 of these 3 areas through the collection of 1 soil sample in each area. These samples are proposed to be tested for hexavalent chromium and cyanide. MassDEP believes that this limited data set will not be effective in evaluating the potential threat to human receptors. **One sampling point must be established in each area and soil samples must be collected at each location from a depth of 0 to 1 foot. Surface soil samples from all locations must be tested for arsenic, total chromium, hexavalent chromium, and cyanide. One soil sample from each area must be tested for dioxin**

Northwest of the former Beamhouse, several drums and 1 large above-ground storage tank were identified. These storage containers must be evaluated to determine their contents, and whether or not their presence on the property presents an IH to human health or a threat of release to the environment.

## Crane River

An IHE must be completed for sediments in the Crane River. As part of a sediment investigation completed by the former Licensed Site Professional, a Mr. Luke Fabbri, 24 sediment sampling stations were established and 24 sediment samples were collected in April 2005 and tested for arsenic. Samples must be collected from all of these stations and analyzed for total chromium, hexavalent chromium, and cyanide. Twelve of these locations spread equidistant throughout the grid must be tested for dioxin. In addition a sample must be collected of sediment directly at the outlet of the former lagoon drainage discharge pipe and tested for all of the contaminants of concern.

### NOTICE OF RESPONSE ACTION

A site walk of the property on Tuesday September 19<sup>th</sup>, 2006 revealed that access to the property is currently unrestricted, and there is a high potential that trespasser and/or recreational visitors are using the property. Several footpaths and biking trails exist on the property, evidence of overnight camping was identified in the Beamhouse area, and beverage containers were identified near the Crane River. There is a high potential for direct exposure of human receptors to building debris in the former Beamhouse Area, contaminated soils in former disposal areas, and sediment in the Crane River. Based on the above information, Immediate Response Actions must be initiated at this site in a timely and effective manner.

MassDEP will initiate the response actions described above unless you verbally notify MassDEP of your intentions to conduct these activities, **by 5:00 p.m. on November 3, 2006**. In addition to the verbal notification, you must provide a Modified IRA Plan **within 21 days of the date of this letter**. The modified IRA Plan must comply with all of the requirements listed in this letter, as well as the requirements previously listed in the August 4, 2006 NON.

The IH Evaluation must be completed in accordance with timeframes and requirements outlined in 310 CMR 40.0426 and 40.0950. **Within 60 days of the date of this letter**, an LSP Opinion must be submitted to the Department which determines whether an IH exists. The LSP Opinion must outline what steps have been taken to define if an IH exists, and if necessary a plan to remove and/or contain those areas that could pose an IH to human health, safety, public welfare or the environment. The IH Evaluation must evaluate exposures in compliance with 310 CMR 40.0953. The dates and times established for these actions are reasonable Interim Deadlines established pursuant to 310 CMR 40.0167. MassDEP's decision to establish one or more Interim Deadlines in accordance with 310 CMR 40.0167 is not subject to M.G.L. c. 30A or any other law governing adjudicatory proceedings.

Should you fail to voluntarily undertake the required response actions and provide MassDEP with the submittals required above by the Interim Deadlines established above, or should you provide submittals that are determined by MassDEP to be unacceptable, **MassDEP will initiate these response actions on or after November 3, 2006** and may initiate appropriate cost recovery and/or enforcement actions as described below. If at any time you wish to assume responsibility for these response actions after MassDEP has initiated them, you may do so only with the permission of MassDEP

### LIABILITY AND TREBLE DAMAGES

MassDEP continues to consider you potentially liable under M.G.L. c.21E for up to three times all response action costs incurred by MassDEP related to the site, and for damages to natural resources. If you fail to voluntarily take these remedial response actions, the Commonwealth has authority to place a lien on all your property within the Commonwealth to secure its response action costs. The Commonwealth, through the Attorney General, may foreclose on any such lien or bring legal action against you to recover its response action costs. MassDEP and the Attorney General may also pursue other legal action under M.G.L. c.21E and M.G.L. c.21A Section 16 for violations of Chapter 21E and other laws, regulations, orders or approvals.

If you can not perform these remedial response actions, you must submit a notice of financial, technical or legal inability as described in 310 CMR 40.0172 to secure yourself with a defense to treble damages. Even if you have a defense to treble damages, you will still be obligated to complete response actions that you are able to perform and continue to be liable for costs and damages.

**Former Creese & Cook Tanne  
Immediate Response Action Plan Denial  
Notice of Response Action  
Page 6 of 6**

Be advised that in addition to the specific response action requirements mentioned in this notification, you are responsible for conducting all additional 21E response actions which may be necessary to complete the cleanup of the releases and threats of release for which you have been notified of your potential responsibility in accordance with the MCP. The subject releases/threats of release shall not be deemed to have had all the necessary and required response actions taken unless and until all substantial hazards presented by the site have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with M.G.L. c.21E and the MCP. These response actions may include but are not limited to Comprehensive Response Actions and additional Immediate Response Actions.

If you have any questions relative to this notice, please contact Christopher Pyott at the letterhead address or (978) 694-3353. All future communications regarding this release must reference the Release Tracking Numbers 3-0303 and 3-12711.

Sincerely,



Christopher Pyott  
Environmental Analyst  
Brownfields/Permits



Joanne Fagan  
Section Chief  
Brownfields/Permits

**cc via mail:**

Data Management (C&E/Intlet) / (CEE / NOFA) /

**cc via e-mail**

Woodard & Curran, 35 New England Business Center, Andover, MA 01810

Attn: Mr. David MacDonald

Danvers Board of Health, Town Hall, 1 Sylvan Street, Danvers, MA 01923

Attn: Mr. Peter Mirandi





COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

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Secretary

ROBERT W. GOLLEDGE, Jr.  
Commissioner

August 4, 2006

Orchard Farm Trust  
39 Cross Street  
Peabody, MA 01960

Attention: Mr. Nicholas J. Decoulos

**RE: Danvers –  
Former Creese & Cook Tannery  
Release Tracking #'s 3-0303 & 3-12711  
Permit # 104028  
NON-NE-06-3C001  
Noncompliance with M.G.L. c. 21E and 310  
CMR 40.0000 (the Massachusetts Contingency  
Plan)**

**NOTICE OF NONCOMPLIANCE**

THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

Dear Mr. Decoulos:

The Massachusetts Department of Environmental Protection (MassDEP) has determined that the Orchard Farm Trust has failed to submit the necessary Immediate Response Action (IRA) Status Reports and must complete a thorough Imminent Hazard evaluation for the site listed above. These activities are required by the Massachusetts Contingency Plan (MCP) and the regulations adopted thereunder, 310 CMR 40.0000. This information is necessary to address a release of oil and/or hazardous material which occurred at the above referenced site. MassDEP's records indicate that the Orchard Farm Trust took title to the property located at 25 Clinton Avenue in Danvers on or about August 7, 2003, and was issued a Notice of Responsibility on July 16, 2004.

Attached hereto is a written description of (1) each activity referred to above, (2) the requirements violated, (3) the action MassDEP now wants the Orchard Farm Trust to take, and (4) the deadline for taking such action. An administrative penalty may be assessed for every day from now on that you are in noncompliance.

Notwithstanding this Notice of Noncompliance, MassDEP reserves the right to exercise the full extent of its legal authority in order to obtain full compliance with all applicable requirements, including, but not limited to, criminal prosecution, civil action including court-imposed civil penalties, or administrative penalties assessed by the MassDEP.

The IH Evaluation needs to be revised to focus on contamination in surficial soils. A letter report completed by R.E.W. Environmental Consultants (REW) and dated March 18, 1997 indicates that exposure point concentrations for arsenic were calculated using contaminant concentrations that were identified in soils located from 0 to 3 feet below the ground surface, instead of soils located in the top 0-12 inches.

The IH Evaluation also needs to be revised to include other contaminants of potential concern such as chromium, cyanide, and dioxin that could dominate the risk estimates. Chromium has been identified on site at some locations in near surface soils above the threshold concentration of 200 mg/kg that indicates the potential for an IH, but no comprehensive sampling program has been implemented in the former lagoon area to determine the extent, magnitude, and speciation of chromium in surface soils. In addition, the presence of cyanide and dioxin in surface soils in the former lagoon area needs to be evaluated, because these are contaminants of concern at many tannery waste sites.

#### **Imminent Hazard Evaluation – Other Upland Areas of Concern**

MassDEP believes that the IH Evaluation also needs to be extended to other upland areas of the site where tannery waste is known to have been disposed, such as the former landfills and the former beamhouse. The updated IH Evaluation of these areas needs to evaluate arsenic, chromium, cyanide, and dioxin. Arsenic has been identified in near surface soils at these locations and others above threshold levels of concern for an IH. The additional areas of concern for arsenic are identified on a map of the contaminant distribution that was included in a report completed by REW, dated April 3, 1998, and entitled "Supplemental Phase III Selection of Comprehensive Remedial Action Plan and Phase IV Remedy Implementation Plan." Chromium is present in near surface soils above the threshold concentration of concern for an Imminent Hazard (200 mg/kg) at boring B-19 (280 mg/kg), which is located to the west of the beamhouse, and at boring B-45 (225 mg/kg), which is located to the west of the cemetery. Minimal data has been collected at the site to date to evaluate the potential presence of chromium in surface soils at any location. The presence of cyanide and dioxin in surface soils in these areas must also be evaluated.

#### **Imminent Hazard Evaluation – Crane River**

An IH Evaluation must also be completed for potential exposures to contaminants of concern in the sediments of the Crane River. Liquid wastes were disposed in the former lagoon and discharged directly into the Crane River from the early 1930's through 1975. Very little testing has been completed to determine the extent to which the river has been contaminated, but sediment samples that were collected from the tidal flats in the Crane River have shown chromium concentrations as high as 5,390 mg/kg, which is almost 27 times the threshold level for a potential chromium IH in surface soils of 200 mg/kg, and arsenic levels as high as 150 mg/kg, which is almost 4 times the threshold level for a potential arsenic IH in surface soils of 40 mg/kg. Adults and children can access the Crane River and its tidal flats for recreational activities and be exposed to this contamination. The IH Evaluation for the Crane River must include arsenic, chromium, cyanide, and dioxin.

#### **DESCRIPTION OF THE REQUIREMENT(S) NOT COMPLIED WITH:**

- 310 CMR 40.0425(2) states: "Following submission of the first Status Report, additional Status Reports shall be submitted to the Department every six months thereafter, until such time as an Immediate Response Action Completion Report is submitted to the Department, as described in 310 CMR 40.0427. Each Status Report shall document Immediate Response Action activities occurring over the period of time since the previously submitted status report."



- 310 CMR 40.0426(1) states: "An Imminent Hazard Evaluation shall be performed as part of an Immediate Response Action at sites where a release or threat of release could pose an Imminent Hazard to human health, safety, public welfare, or the environment, as described in 310 CMR 40.0321(2), and may be performed at sites where a release or threat of release is deemed to pose an Imminent Hazard, as described in 310 CMR 40.0321(1).
- 310 CMR 40.0740(1) states: "A permittee performing a response action pursuant to a Tier I Permit, Modification, Transfer or Extension shall comply at all times with M.G.L. c. 21E, 310 CMR 40.0000, the terms and conditions of the permit and any other applicable federal, state, or local laws.
- 310 CMR 40.0953 states: "The focus of an Imminent Hazard Evaluation shall be on the actual or likely exposures to Human and Environmental Receptors under current site conditions, considering the current use(s) of the disposal site and the surrounding environment, and considering the appropriate short period of time: ...

(2) For the evaluation of soil-related exposures, the level of oil and/or hazardous material at the ground surface or within twelve inches of the ground surface shall be considered in the development of exposure point concentrations. ...

#### **DESCRIPTION OF THE ACTION(S) TO BE TAKEN NOW, AND THE DEADLINE(S) FOR TAKING SUCH ACTION(S):**

In order to return to compliance, the Orchard Farm Trust must complete the following activities:

1. The Orchard Farm Trust must complete the IRA to address potential IH conditions which may exist on the property and in the Crane River. The IH Evaluation needs to be revised because it was not completed in compliance with the regulations identified above. The IH Evaluation in the former lagoon area must be revised, and expanded to other areas of the site where waste material and contamination from tannery operations have been identified. This includes the former landfills, the beamhouse area, and other upland areas of the site where waste materials have been identified at levels that could potentially pose an IH. The potential for an IH to adults and children in the Crane River must also be completed. The IH Evaluation must include arsenic, chromium, cyanide, and dioxin, unless compelling evidence is provided to eliminate one or more of these contaminants of concern.

The IH Evaluation must be initiated **within 14 days of the date of this letter** and be completed in accordance with timeframes and requirements outlined in 310 CMR 40.0426 and 40.0950.

**Within 60 days of the date of this letter**, an LSP Opinion must be submitted to the Department which determines whether an IH exists. If this is not possible, the LSP Opinion must outline either what steps have or will be taken to define if an IH exists, or a plan to remove and/or contain those areas that could pose an IH to human health, safety, public welfare or the environment. The IH Evaluation must evaluate exposures in compliance with 310 CMR 40.0953. It should be noted that evidence of trespassing, including occupancy by homeless persons and access by youth for dirt biking and paint ball activities, have been reported by representatives of the Town of Danvers. In accordance with 310 CMR 40.0426 (4) the Orchard Farm Trust shall keep MassDEP informed as to the progress being made in addressing and/or abating the potential IH in report submittals made as part of the Immediate Response Action Status Reports.

2. The Orchard Farm Trust must submit the next IRA Status Report **within 60 days of the date of this letter, and every 6 months thereafter** until an IRA Completion Report is submitted.

Law Office of  
**NICHOLAS J. DECOULOS**  
39 Cross Street (Suite 204)  
Peabody, Massachusetts 01960-1666  
Telephone (978) 532-1020

SCANNED

Nicholas J. Decoulos

E-Mail: decouloslaw@verizon.net

**VIA FACSIMILE 777-1025**

August 2, 2006

RECEIVED

AUG - 4 2006

Wayne P. Marquis, Town Manager  
Town of Danvers  
Town Hall  
Danvers, MA 01923

DEP

**Re: Danvers/Creese & Cook Tannery  
DEP RTN #3-0303  
Technical Evaluation**

NORTHEAST REGIONAL OFFICE

Dear Mr. Marquis:

Pursuant to our discussion of this morning, I contacted Joanne Fagan, Section Chief, Brownsfields/Permits to acquire information as to when the notice of non-compliance will be given to the Orchard Farm Trust. I also discussed with her the need of an Imminent Hazard Evaluation.

Ms. Fagan informed me that the notice of non-compliance is presently being reviewed with the Deputy Regional Director and that Evan Bolansky was advised of this fact in the early part of this week. Although she could not give me an exact date, the notice should be forthcoming within the next two weeks or possibly longer.

I also wish to advise you that a Request for Proposals, a copy of which is transmitted herewith, has been submitted by Orchard Farm Trust to four firms and it appears that they are selecting Woodward & Curran, 980 Washington Street, Dedham, MA 02026 (Tel. 800-446-5518).

Wayne Marquis, Town Manager  
Page Two  
August 2, 2006

Please be advised that I am respectfully requesting a continuance of the Land Court matter for a period of two (2) months in order to make an attempt to comply with all of the requirements of the DEP.

Will you please review this matter with your staff and inform me what the Town's position is on my request to continue the Land Court matter for two months. Thank you.

Very truly yours,



Nicholas J. Decoulos

NJD:aw

cc: Evan Bolansky, Town Planner (via fax 978-762-0215)  
Joanne Fagan, Section Chief, DEP  
James J. Decoulos, LSP  
Luke A. Fabbri, LSP



COMMONWEALTH OF MASSACHUSETTS  
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Commissioner

**MEMORANDUM**

**TO:** Joanne Fagan, Section Chief, Brownfields/Permits  
**FROM:** Christopher Pyott, Environmental Analyst, Site Management  
**DATE:** May 19, 2006  
**SUBJECT:** DANVERS/Creese & Cook Tannery  
DEP RTN # 3-0303  
Technical Evaluation

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The Town of Danvers has requested the Massachusetts Department of Environmental Protection (MassDEP) provide an update on the investigation and cleanup of the Creese & Cook Tannery Site, which is located at 25 Clinton Avenue. The Town is considering foreclosing on the property, and has historically been interested in its redevelopment. The goal of this document is to outline for the Town of Danvers what additional activities need to be completed at this site to properly investigate the nature and extent of contamination so that appropriate remedial measures can be implemented and future development opportunities can be evaluated.

**HISTORICAL INVESTIGATION AND REMEDIATION**

The Creese & Cook site is an abandoned tannery situated on a 10.7-acre parcel along the south bank of the Crane River. From the early 1930's through 1984, Creese and Cook took raw animal hides and produced shoe, handbag, glove and garment leather, primarily from cowhide stock. The main facility was the beamhouse operation where raw animal hides were processed. The solids from the manufacturing process were placed in two landfills, and liquid wastes were disposed of in an old lagoon system, which until 1975 discharged directly into the Crane River.

The initial environmental investigation was completed at the property in 1984 through 1985 to determine the nature and extent of contamination and evaluate potential remedial options. The main areas of concern investigated were the landfills and the lagoon. The investigation identified 13,000 cubic yards of solid waste, which contained elevated levels of arsenic, chromium, and cadmium. Significant levels of hydrogen sulfide and methane were being generated from the landfill materials.

In September of 1988, MassDEP (formerly known as the Massachusetts Department of Environmental Quality Engineering) approved a plan to excavate the landfill and lagoon areas, solidify the waste material, and bury the waste in a lined containment cell located in the northwestern corner of the Creese and Cook property. Construction of the containment cell was finished in May 1990, but MassDEP never considered the project complete because post-excavation samples from the landfill and lagoon areas revealed average concentrations of chromium approximately 3 times the earlier stipulated cleanup goal of 200 mg/kg. In addition, since the installation of the cell, arsenic has been noted at concentrations greater than 3 times background, in groundwater samples collected from monitoring wells that were installed surrounding the cell.

### **MOST RECENT INVESTIGATION AND REMEDIATION PLAN**

From 1995 through 1998 R.E.W. Environmental Consultants (REW), on behalf of Riversedge Realty Trust, completed a Phase II Comprehensive Site Investigation, a Phase III Selection of Comprehensive Remedial Action Plan, and a Phase IV Remedy Implementation Plan. The work was completed with the goal of establishing and implementing a remedial plan that would be effective at cleaning up the site, in order that a 58 lot residential subdivision could be constructed for single-family use. During the investigation noted above MassDEP submitted a "Notice of Need to Conduct an Immediate Response Action" to Riversedge Realty Trust, due to the identification of elevated levels of arsenic in surface soils in the area of the former lagoon. An Imminent Hazard Evaluation was completed by Foster Wheeler Corporation, and submitted to MassDEP by REW in June 1997. The results of these evaluations are discussed below.

### **Soil and Tannery Waste**

An investigation was completed to define the nature and extent of buried wastes and contaminated soils that still exist on the property outside of the containment cell. The following activities were completed.

- Delineation of the lateral and vertical extent of arsenic contaminated soil in the area of the former lagoon was completed by advancing 110 hand augered soil borings in and around the former lagoon, with 132 soil samples collected from depths from 0 to 3 feet below grade. The samples were screened using an X-Ray Fluorescence Analyzer, with 10% sent to the laboratory for confirmation.
- In order to characterize the nature and extent of soil contamination in the area proposed for development, approximately 125 soil borings were advanced to depths of up to 9 feet. Soil samples were collected from multiple depths and evaluated for the presence of arsenic, chromium, mercury, and lead. Soil samples were collected to evaluate surface quality, typical basement depth, and maximum depth of typical basement excavation.
- In order to identify the depth of contamination, test pits were completed in three areas where tannery wastes were identified outside of the containment cell, and one additional test pit was advanced in an area where soil was contaminated with polyaromatic hydrocarbons.

The investigations listed above identified various areas of contamination that are primarily associated with the former landfills and lagoon. The total extent of arsenic contaminated soil that will require remediation is estimated at 6,782 cubic yards, and is located primarily in the area of former Landfill A and the area of the former lagoon. Other smaller areas of arsenic contaminated soil were identified beneath and to the northwest of the beamhouse and along a sewer line in the area of Landfill B.

An area of soils along the sewer line in the area of former Landfill B was also found to be impacted with polyaromatic hydrocarbons. In addition to the arsenic contaminated soils, residual tannery waste was identified in both former landfill areas. The estimated volume of this material is 620 cubic yards.

REW completed a risk characterization, with an Imminent Hazard (IH) Evaluation for exposure to arsenic in surface soils in the former lagoon area completed by Foster Wheeler. It was concluded that an Imminent Hazard did not exist, and REW developed a Residential Soil Cleanup Standard of 30 mg/kg for arsenic, which at the time was equivalent to the MassDEP Method 1 Soil Standard.

REW completed a Phase III Remedial Action Plan and a Phase IV Remedy Implementation Plan. The remedial option selected was excavation and disposal for arsenic contaminated soil on site in an isolation cell, to be constructed on top of the existing cell installed in 1990. Solid waste and soils impacted with tannery wastes would be disposed of off-site. REW noted that several lots located along the Crane River that are located in the former landfill areas may either need to be eliminated from residential use or require Activity and Use Limitations, because of the extensive excavation that would be required along the river bank. REW believed that implementation of the remedial action identified above would achieve a level of "No Significant Risk" for this site, and qualify it for a Class A-2 Response Action Outcome. None of the remedial actions identified above have been implemented.

### **Groundwater**

REW installed eight monitoring wells to provide groundwater quality information, and there were three existing monitoring wells located near the lined landfill. The groundwater depth varies from approximately 12 feet below grade in the northern portion of the site, to 21 feet below grade in the southern portion of the site. Groundwater flow travels east towards the Crane River. REW concluded that the chemical analysis of the 11 monitoring wells indicated that little to no adverse effect on groundwater quality under current conditions.

### **Sediment**

The sediment in the Crane River was not analyzed as part of the REW investigation of this site. REW was planning to address the nature and extent of sediment contamination as part of a completely separate investigation that was never completed. Limited historical sampling of surface water and sediment in the Crane River adjacent to the site indicates that significant contamination is present, and a detailed investigation of the nature and extent of this contamination is warranted.

### **Air**

Air contamination was not evaluated as part of the studies completed by REW. The potential for air contamination was evaluated in a report entitled "Final Site Inspection Prioritization" that was completed by Stone & Webster Environmental Technology (Stone & Webster) on behalf of the United States Environmental Protection Agency in October 1996. Stone & Webster indicated that there is no release to the air pathway which could affect nearby residents or sensitive environments.

### **MassDEP EVALUATION**

Due to the historical use of the property as a tannery, there is significant contamination of upland soils and in the sediment in the Crane River. Significant further investigation is required to understand the nature and extent of contamination and the potential risks to human health and the environment. All of this work needs to be completed before appropriate remedial measures and potential development

options can be contemplated. MassDEP has completed an evaluation of the work completed at the Creese & Cook Tannery Site and identified several areas where the investigations have been insufficient.

#### **IRA/Imminent Hazard Evaluation**

- MassDEP believes that an IH could potentially exist at the site due to arsenic contamination in surface soils. Although the previous IH Evaluation concluded that one did not exist, the standards in the Massachusetts Contingency Plan were recently revised on April 3, 2006. The Method 1 S-1 standard for arsenic in soil was reduced from 30 mg/kg to 20 mg/kg, which indicates that more recent research on arsenic indicates that it has a greater toxicity than previous information indicated. Since the previous IH evaluation was completed in 1997, it needs to be updated with the more recent toxicity information.
- MassDEP has not completed a recent site visit, but it is our understanding that a fence does not presently exist surrounding the former lagoon area where arsenic contamination has been identified in surface soils. It is our understanding that several dirt paths presently exist across the site and there is a potential that people using these paths would be exposed to this soil. A fence needs to be installed to limit access to this area of the site.

#### **Non Compliance with Massachusetts Contingency Plan**

- The site has a history of non-compliance with the Massachusetts Contingency Plan, apparently due to financial hardship of the previous owner, Riversedge Realty Trust. MassDEP's records indicate that ownership of the site was transferred from Riversedge Realty Trust to the Orchard Farm Trust in August 2003. MassDEP granted a Tier 1C Permit Extension to the Orchard Farm Trust in December 2004, that extends the allowable time to obtain a Response Action Outcome at the site until February 1, 2007. In a letter dated November 10, 2004, the Licensed Site Professional, Mr. Luke Fabbri, indicated that by June 2005 an amended Phase II/III will be submitted that evaluates adjacent wetlands and addresses data gaps on upland portions of the site. The letter also states that the goal is to complete Phase IV activities by January 2006. None of this work has been submitted to MassDEP.
- The site is presently out of compliance with the Massachusetts Contingency Plan due to suspension of Immediate Response Action (IRA) activities without the submittal of an IRA Completion Report. The IRA was underway in order to address the existence of arsenic at levels of concern in surface soils. In response to MassDEP's Permit Expiration Date & Notice of Interim Deadline letter dated January 4, 2005, Mr. Luke Fabbri submitted an IRA status report to MassDEP in February 2005. No additional IRA Status Reports have been submitted to MassDEP since that date. These reports are required every six months.

#### **Phase II Comprehensive Site Investigation**

- Previous site characterization data needs to be evaluated in relation to the new standards that were promulgated on April 3, 2006. The Standards for many of the contaminants that have been previously identified on site have become more stringent. For instance, the Method 1 S-1 standard for arsenic has been reduced from 30 mg/kg to 20 mg/kg, cadmium has been reduced from 30 mg/kg to 2 mg/kg, hexavalent chromium has been reduced from 200 mg/kg to 30 mg/kg, and lead has been reduced from 300 mg/kg to 20 mg/kg. The more stringent standards will likely



have a major impact on the extent of remedial measures that will be required prior to future site development.

- The horizontal and vertical extent of soil contamination has not been fully evaluated at the property. One of the major problems with the previous proposal for residential development was that soil samples were not collected from several of the lots proposed for development, and areas designated as open space were not sampled. In some of the areas where borings were completed they were not installed deep enough to identify the vertical extent of contamination. For instance in boring B20, which was installed to the west of the beamhouse, chromium was identified at a concentration of 3,200 mg/kg in the deepest soil sample collected at 13 to 14 feet below grade. This concentration is well above the Upper Concentration Limit for chromium of 2,000 mg/kg. Another example is borings B63 and B64, which were installed in the former area of Landfill B. At these locations arsenic was identified in soil samples collected from 8 to 12 feet at concentrations of 1,760 mg/kg and 295 mg/kg, respectively, both of which are above the Upper Concentration Limit of 200 mg/kg for arsenic.
- The types of contamination that could be present has not been fully evaluated. For example, hexavalent chromium has not been previously included in the analytical program, even though tanning and dyeing facilities are known sources of this chemical. In addition, dioxin has not been previously analyzed. Although dioxin is not used in the tanning process, it can be a problem at tannery sites because it is a common impurity in chlorinated phenols, which are known to be used in tannery operations.
- The groundwater investigation that has been completed to date on the property was only focused to a limited extent on previous contaminant source areas and potential downgradient migration pathways. The majority of wells that were installed were only sampled once in 1995 and once in 1996. No groundwater monitoring wells have been installed beneath the former beamhouse, where concentrations of chromium in soil above Upper Concentration Limits are known to extend to depths of 14 feet. Only one groundwater monitoring well has been installed in each of the former landfill and lagoon areas, with none located in areas where tannery waste is still known to be present. Only two monitoring wells have been installed between the former landfill and lagoon areas and the Crane River in an area that extends for approximately 800 feet, even though groundwater is known to migrate in this direction.
- There is limited historical data on the quality of the surface water and sediment in the Crane River adjacent to this site. None of this type of data was collected during the most recent investigation. Since liquid wastes from the lagoon area were discharged directly into the Crane River from the early 1930's until 1975, it is critical to complete a thorough evaluation of the nature and extent of contamination in the Crane River and downstream receiving surface water bodies if necessary, in order to identify potential ecological impacts. In addition, if this area is proposed in the future for development, the potential risks to people that may use the Crane River for recreational purposes will need to be evaluated.
- Significant levels of hydrogen sulfide and methane have historically been generated on the property from tannery waste. Since significant quantities of tannery waste still exist on the property outside the boundary of the containment cell, potential air quality impacts will need to be evaluated during any future remediation or development of the property.

### **Phase III Remedial Action Plan/Phase IV Remedy Implementation Plan**

- It is not appropriate to complete the Phase III Remedial Action Plan/Phase IV Remedy Implementation Plan until the nature and extent of contamination at this property has been fully evaluated.

### **Containment Cell**

- There is limited data to determine if the existing containment cell on the property is effectively containing the tannery waste that was disposed in it in 1990. In a letter from the Massachusetts Department of Environmental Quality Engineering (DEQE) to Mr. George Olson of SP, Inc. dated February 8, 1988, DEQE outlined the requirements for a long-term monitoring program for the containment cell. In fact the letter states that 2 landfill cells instead of 1 were supposed to be constructed. It is clear from a review of the site file that an appropriate long-term monitoring program, that fulfilled the requirements listed in this letter, was never implemented.